MEMORANDUM

Agenda Item No. 14(A)(1)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 20, 2012

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution amending Implementing Order 4-4 relating to Port Miami Terminal Tariff No. 010; providing a definition for Small Passenger Vessels

The accompanying resolution was prepared by the Port of Miami Department and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum

MIAMI-DADE COUNTY

Date: November 20, 2012

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Amending Implementing Order 4-4: Port of Miami Terminal Tariff No. 010

Recommendation
It is recommended that the Board of County Commissioners approve the accompanying resolution amending Implementing Order 4-4. This Implementing Order establishes the rates, rules and regulations contained in the Port of Miami Terminal Tariff No. 010 ("Tariff").

Scope
PortMiami is located within District 5 – Commissioner Bruno A. Barreiro. The impact of this agenda item is countywide as PortMiami is a regional asset and generates employment for residents throughout all of Miami-Dade County.

Fiscal Impact/Funding Source
The implementation of this new Tariff item will enhance PortMiami's position in attracting additional smaller boutique/niche cruise brands. This incentive was an important factor into Prestige Cruise Holdings' ("PCH") decision to consolidate its two cruise brands at PortMiami for the upcoming cruise season. Immediate financial impact of this consolidation, considering this incentive, can be evidenced by PCH's anticipated revenue increase to the Port from approximately $400,000 (under the old terms) to an anticipated $585,000 in FY 2013.

PortMiami presently has four cruise brands with ships that would qualify from the incentives provided under the proposed Tariff rates for Small Passenger Vessels. These are Regent Seven Seas Cruises (20 calls), Oceania Cruises (18 calls), Aida Cruises (3 calls), and Azamara Club Cruises (2 calls). The net effect of the proposed new rate considering the aforementioned qualifying lines/calls is an increase of approximately $160,000 in FY 2013. This new rate structure will further allow the Port to be competitive in offering discounted rates for luxury brands with vessels under 800 feet in length. Thus, additional cruise business may be generated as a result of the proposed incentive.

Track Record/Monitor
PortMiami staff members responsible for monitoring Implementing Order 4-4: Port of Miami Terminal Tariff No. 010 are Juan Kuryla, Deputy Director and Kevin Lynskey, Assistant Director, Business Initiatives.

Background
PortMiami submits recommended Tariff changes for the Board's consideration every September through the County's budget process. However, from time to time, proposed Tariff amendments are also brought to the Board for consideration during the budget year, typically for competitive reasons or on an as needed basis. The attached proposed Tariff addition is designed to attract new cruise business for Small Passenger Vessels berthing at PortMiami's Terminal J.

Last year, PCH which is a privately-held holding company for two luxury cruise brands – Oceania Cruises ("Oceania") and Regent Seven Seas Cruises ("Regent") – advised the Port of their intentions to consolidate both cruise brands at one South Florida homeport for their Caribbean deployments beginning winter 2012/13. Oceania has homeported exclusively in Miami since its inception in 2003 while the Regent brand has homeported exclusively in Port Everglades since 1995. PortMiami embarked on a series of meetings with PCH in efforts to consolidate both brands in Miami.

The proposed Tariff item recommends creating a new definition and rates for Small Passenger Vessels. A Small Passenger Vessel shall be defined as a multi-day passenger vessel with an overall length of less than 800 feet. The proposed rates, which shall apply for ships berthed only at Terminal J, are as follows:

> Dockage: Small Passenger Vessels offering multi-day cruises berthing at Terminal J, and departing within less than 24 hours from arrival time, shall be assessed dockage per gross registered ton per 24-hour period or fraction thereof at the rate of $.185.
>
> The Small Passenger Vessel dockage rate shall only apply to Small Passenger Vessels berthed at Terminal J. This rate shall not apply to Small Passenger Vessels berthing at terminals other than Terminal J, unless Terminal J is unavailable on the day(s) of such berthing due to Terminal J's use and occupancy by any other cruise vessel. Small Passenger Vessels berthing at terminals other than Terminal J on days (or fractions thereof) when Terminal J is available shall be assessed the dockage rate currently set forth in Tariff Item No. 306.
>
> Wharfage: All passengers, same vessel, Embarking onto a Small Passenger Vessel offering multi-day cruises and berthed at Terminal J (including security charge), per passenger $4.98
>
> All passengers, same vessel, Debarking from a Small Passenger Vessel offering multi-day cruises and berthed at Terminal J (including security charge), per passenger $4.98
>
> The Small Passenger Vessel wharfage rates set forth above shall only apply to passengers embarking and/or debarking from Small Passenger Vessels berthed at Terminal J. These rates shall not apply to Small Passenger Vessels at terminals other than Terminal J, unless Terminal J is unavailable on the day(s) of the subject Small Passenger Vessel embarkation and debarkation due to Terminal J's use and occupancy by any other cruise vessel. Small Passenger Vessels using passenger terminals other than Terminal J on days when Terminal J is not occupied shall be subject to the passenger wharfage embarkation and debarkation rates currently set forth in Tariff Item No. 408.

Vessels at Terminal J are limited to an approximate 800 feet in length due to the terminal's location on the south side of the Port and the related water displacement as it navigates alongside the Port's working gantry cranes. The Biscayne Bay Pilots will currently not berth a vessel longer than 820 feet at this facility. Terminal J recently underwent a $3 million renovation to accommodate its current tenants and lure new luxury brands to Miami. This facility is now known as the Port's "boutique" terminal.

To accommodate the commitments associated with this Tariff item, the resolution incorporates language to establish the effective date as the earlier of (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

Delegation of Authority

In accordance with Section 28.3 of the Miami-Dade County Code related to identifying delegation of the Board authority, there are no authorities beyond that specified in the resolution which include the authority for the Mayor or his designee to execute the Implementing Order.

Jack Osterholt, Deputy Mayor

mayor00913

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: November 20, 2012

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 14(A)(1)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous_____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(1)
11-20-12

RESOLUTION NO. _____

RESOLUTION AMENDING IMPLEMENTING ORDER 4-4 RELATING TO PORT MIAMI TERMINAL TARIFF NO. 010; PROVIDING A DEFINITION FOR SMALL PASSENGER VESSELS; CREATING NEW DOCKAGE AND WHARFAGE RATES APPLICABLE TO CERTAIN SMALL PASSENGER VESSELS; AND ESTABLISHING RETROACTIVE EFFECTIVE DATE FOR SUCH RATES

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the amendments to Implementing Order 4-4: Port of Miami Terminal Tariff No. 010, in substantially the form attached hereto. Upon this resolution becoming effective, the new Small Passenger Vessel rates approved hereby shall apply and take effect as of November 1, 2012.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of November, 2012. This resolution shall become effective upon the earlier of (1) ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. SBB

Steven B. Bass

I.O. No.: 4-4
Ordered:
Effective:

MIAMI-DADE COUNTY
IMPLEMENTING ORDER

PORT OF MIAMI TERMINAL TARIFF NO. 010
SEAPORT DEPARTMENT

AUTHORITY:
The Miami-Dade County Home Rule Amendment Charter, including, among others, Sections 1.01 and 2.02A.

SUPERSEDES:
This Implementing Order supersedes prior Implementing Orders and revisions to Port of Miami Terminal Tariff No. 010 as it relates to those items specified in the attached Tariff pages. Any items not expressly superseded herein remain in effect.

POLICY:
Port of Miami Terminal Tariff No. 010 shall be established providing for the rates, rules and regulations for the Seaport facilities of Miami-Dade County, Florida.

PROCEDURE:
The Director of the Dante B. Fascell Port of Miami-Dade (Port of Miami) is responsible for the operation and management of Port of Miami, including establishing rates and fees for usage of Port facilities and collection of same. Reviews and revisions of rates and fees will occur on an annual basis with recommendations for changes forwarded to the County Mayor.

TARIFF:
The Tariff items adopted by this Implementing Order have been presented and are considered a part hereof. In accordance with Section 2.3 of the Code of Miami-Dade County, these official Tariff items are also filed with the Clerk of the Board of County Commissioners. Items, which are charged by the Port of Miami, shall be the same as those listed in the official Port of Miami Terminal Tariff No. 010 on file with the Clerk of the County Commission.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

Approved by the County Attorney as
to form and legal sufficiency _____

FOR EXPLANATION OF SYMBOLS, SEE PAGE 0-A (AFTER TITLE PAGE)

		ITEM
One or more structures comprising a terminal unit, and including, but not limited to wharves, warehouses, covered and/or open storage space, cold storage plants, grain elevators and/or bulk cargo loading and/or unloading structures, landings and receiving stations, used for the transmission, care and convenience of cargo and/or passengers in the interchange of same between land and water carriers or between two water carriers.	PORT TERMINAL	136
The department of Miami-Dade County created to operate, manage and develop the Seaport and terminal facilities of Miami-Dade County.	SEAPORT DEPARTMENT	138
The vessel representative responsible for the collection and payment of all charges assessed on a vessel for which they file a Request for Ship's Berth Assignment and provide accurate manifest documentation. All Ship Agents must be bonded and permitted by the Seaport Department to transact business at the Port of Miami.	SHIP AGENT	139
A vessel having a container/trailer capacity of 750 TEUs or less.	SMALL BOAT	140
A multi-day passenger vessel with an overall length of less than 800 feet shall be deemed a *"Small Passenger Vessel."*	SMALL PASSENGER VESSEL (I)	141
A publication containing the rates, charges, rules regulations and practices of any Person carrying on the business of furnishing wharfage, dock, warehouse, or other marine terminal services or facilities in connection with a common carrier by water in the United States or its possessions.	TARIFF	142
A schedule, tariff, supplement to, or revised or amended page of a schedule or tariff.	TARIFF PUBLICATION	144
The service of providing warehouse or other terminal facilities for the storing of inbound or outbound cargo, including wharf storage, shipside storage, closed or covered storage, open or ground storage, bonded storage and refrigerated storage, after storage arrangements have been made.	TERMINAL STORAGE	146

FOR EXPLANATION OF SYMBOLS, SEE PAGE 0-A (AFTER TITLE PAGE)

		ITEM
Cruise passenger vessels arriving on any day Thursday through Monday, and departing within less than 24 hours from time of arrival, shall be assessed dockage on the basis of each gross registered ton per 24-hour period or fraction thereof at the rate of .....$.32* Cruise passenger vessels arriving on Tuesday through Wednesday, and departing within less than 24 hours from time of arrival, shall be assessed dockage on the basis of each gross registered ton per 24-hour period or fraction thereof at the rate of .....$.28* Intercoastal Tug and Barge Lines providing container service between Miami and other continental U.S. ports will not be assessed dockage charges while they are loading or discharging containers. Special rates for these services are listed under Cargo Wharfage Charges. All other vessels shall be assessed dockage based on gross registered ton per 24-hour period or fraction thereof at the rate of.....$.32 The absence of reliable tonnage data, vessel shall be assessed for each lineal foot per 24-hour period or fraction thereof at the rate of.....$3.09 * Excluding inaugural activities for homeport ships at the discretion of the Director	DOCKAGE CHARGES EXCEPT GOVERNMENT VESSELS, ~~AND~~ OCEAN RESEARCH VESSELS, AND SMALL PASSENGER VESSELS BERTHING AT TERMINAL J (C)	306
Small Passenger Vessels offering multi-day cruises berthing at Terminal J, and departing within less than 24 hours from time of arrival, shall be assessed dockage per gross registered ton per 24-hour period or fraction thereof at the rate of $.185*. The *Small Passenger Vessel* dockage rate set forth in this Tariff Item 307 shall only apply to *Small Passenger Vessels* berthed at Terminal J. This dockage rate shall not apply to *Small Passenger Vessels* berthing at terminals other than Terminal J, unless Terminal J is unavailable on the day(s) of such berthing due to Terminal J's use and occupancy by any other cruise vessel. *Small Passenger Vessels* berthing at terminals other than Terminal J on days (or fractions thereof) when Terminal J is available shall be subject to the dockage rates set forth in Tariff Item No. 306. * Excluding inaugural activities for homeport ships at the discretion of the Director.	DOCKAGE CHARGES FOR SMALL PASSENGER VESSELS BERTHING AT TERMINAL J (I)	307

FOR EXPLANATION OF SYMBOLS, SEE PAGE 0-A (AFTER TITLE PAGE)

		ITEM
All passengers, same vessel, Embarking onto a *Small Passenger Vessel* offering multi-day cruises *and* berthed at Terminal J (including security charge), per passenger . . . . . $4.98 All passengers, same vessel, Debarking from a *Small Passenger Vessel* offering multi-day cruises and berthed at Terminal J (including security charge), per passenger . . . . . $4.98 The *Small Passenger Vessel* wharfage rates set forth in this Tariff Item 407 shall only apply to passengers Embarking to and/or Debarking from *Small Passenger Vessels* berthed at Terminal J. These wharfage rates shall not apply to *Small Passenger Vessel* Embarkations or Debarkations at terminals other than Terminal J, unless Terminal J is unavailable on the day(s) of such Embarkation and Debarkation due to Terminal J's use and occupancy by any other cruise vessel. Small Passenger Vessels berthing at terminals other than Terminal J (or fractions thereof) on days when Terminal J is available shall be subject to the passenger wharfage Embarkation and Debarkation rates set forth below in Tariff Item No. 408.	PASSENGER WHARFAGE CHARGES FOR SMALL PASSENGER VESSELS BERTHING AT TERMINAL J (I)	407
Vessels offering multi-day cruises: * All Passengers, same vessel, Embarking (including security charge) each.....$ 10.38 Vessels offering multi-day cruises: * All Passengers, same vessel, Debarking (including security charge) each.....$ 10.38 Port-of-call vessels: Per manifested passenger.....$ 10.38 * Excluding inaugural activities for homeport ships at the discretion of the Seaport Director.	PASSENGER WHARFAGE CHARGES EXCEPT SMALL PASSENGER VESSELS BERTHING AT TERNINAL J (C)	408