

MEMORANDUM

Agenda Item No. 8(J)(2)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: September 16, 2015

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

SUBJECT: Resolution authorizing the County Mayor to execute a non binding Memorandum of Understanding with Royal Caribbean Cruises, Ltd. for the lease of land for, and the design, construction, finance, and operation of, a cruise terminal and related improvements; directing that the County Mayor negotiate any and all contracts necessary to give effect to the intent of the Memorandum of Understanding and to present them to the board for approval within 120 days; authorizing the County Mayor to extend time periods if reasonably necessary to finalize negotiations upon written report to the Board

The accompanying resolution was prepared by the Port of Miami and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz and Co-Sponsor Commissioner Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/cp

Date: September 16, 2015

Memorandum



To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

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Subject: Resolution Approving and Authorizing Execution of a Memorandum of Understanding between Miami-Dade County and Royal Caribbean Cruises, Ltd. for the Lease of Land for the Financing, Designing, Building, Operating and Maintaining of a Cruise Terminal and Related Improvements

Recommendation

It is recommended the Board of County Commissioners ("Board") approve the accompanying resolution approving and authorizing the execution of a Memorandum of Understanding ("MOU") between Miami-Dade County ("County") and Royal Caribbean Cruises, Ltd ("RCL") for the lease of land for the financing, designing, building, operating, and maintaining of a cruise terminal and related infrastructure.

Scope

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

Fiscal Impact/Funding Source

Although this MOU is non-binding, the parties have agreed in good faith to undertake certain pre-contract activities. The County will continue to work on the planning and permitting of the bulkhead work necessary for the Terminal A cruise berth. It also agrees to undertake environmental Phase I and Phase II testing and to produce plans that would be used for utility connections. The County will also transmit the most recent bathymetric chart, which is being completed and certified as part of our maintenance dredge program of the main cruise channel. These commitments may require PortMiami to spend about \$500,000, much of which the Port has already incurred as part of its planning efforts. These funds will initially be provided through operating costs and may be capitalized later if the project is constructed.

The binding Agreements that are intended to be presented for Board approval several months from now will contain substantial financial analysis. The Port anticipates that RCL will invest well over \$100 million during the construction phase of the project and that PortMiami will invest several million. The present value of the guaranteed portion of this long-term agreement is estimated to be \$250 million for PortMiami after taking the port's up-front costs and approximately \$1.2 million in annual rent if used for cargo purposes. In the Port's financial projections provided to the bond rating agencies, the revenue from this acreage was estimated at \$1.2 million annually from cargo activity. The revenues derived from this proposed deal from the same acreage is substantially higher at \$9.5 million annually (rent base minimum, escalated at no less than 1.5 percent annually, subject to two (2) formula adjustments described within the MOU).

Track Record/Monitor

PortMiami staff members responsible for monitoring the MOU are Juan Kuryla, Port Director; Kevin Lynskey, Deputy Port Director; and Hydi Webb, Assistant Director, Business Development and Marketing.

Delegated Authority

The resolution authorizes the County Mayor or County Mayor's designee to execute this Non-Binding Memorandum of Understanding on behalf of Miami-Dade County to negotiate the agreements necessary to give effect to the transaction in the manner provided in the MOU, to engage in the predevelopment activities identified in the MOU and to extend the MOU, as provided in the resolution.

Background

RCL is the world's second largest cruise company operator. The company owns six (6) cruise brands – Royal Caribbean International, Celebrity Cruises, Azamara Club Cruises, Pullmantur (Spain), CDF Croisieres de France (France), and TUI Cruises (Germany). Combined these brands operate a total of 44 ships globally with plans to introduce eight additional ships by end of 2020.

RCL and several of its brands have successfully homeported in PortMiami for more than 45 years. RCL passenger volumes and vessel sizes have fluctuated substantially throughout these years. Prior to 2009, the Port averaged more than 1.6 million RCL passengers annually. Unfortunately, Miami lost a majority of RCL's business when RCL announced that its then-largest vessels, the *Oasis of the Seas* and *Allure of the Seas*, would homeport year-round in Port Everglades. Currently, the Port welcomes approximately 730,000 RCL passengers annually, representing approximately 15 percent of the Port's overall passenger traffic. Despite this volume, RCL's contractual guarantee to the County is only 325,000 annual passengers for the preferential use of Cruise Terminal G.

Understanding RCL's current deployment in South Florida, as well as the roll-out of newbuilds in the next three (3) to five (5) years, the Port has been working with RCL in developing a creative structure that will allow for RCL to grow its volume in Miami-Dade County. The proposed model differs significantly from the traditional Port model and makes Miami-Dade County more attractive in a competitive environment. A public-private partnership has been agreed upon between the Port and RCL ("the Parties") and is respectfully recommended to the Board for approval.

At the time that PortMiami failed to secure the *Oasis of the Seas* and the *Allure of the Seas*, the Port did not have facilities capable of hosting these vessels nor did it have suitable expansion plans. In December 2010, the Board adopted the PortMiami 2035 Master Plan, which envisioned a total of eight (8) cruise berths on its north channel – six (6) existing, plus two (2) new berths. Once these two (2) new berths are allocated, there will be no other opportunities to build along the Port's north channel. Such future berths are being named Cruise Terminal A and Cruise Terminal AA.

This proposed MOU outlines a public-private partnership, which provides for RCL to expand its cruise facilities in Miami-Dade County by allowing for RCL to finance, design, build, operate, and maintain Cruise Terminal A on the north-east quadrant of the Port. The land allocation for Cruise Terminal A is partially located in the Port's cargo area (under the Port's control) and is currently generating approximately \$1.2 million in revenue to the County, but much less than what is expected under this MOU.

As the Board is aware, the Port has taken on several large financings over the past two years in range of \$585 million. While it may have been possible to undertake Port-backed project financing for this cruise terminal, PortMiami is heavily leveraged and prefers to take on a private partner for this project. Thus, this deal structure is extremely attractive to the Port because it transfers risk from the County to a private company and is based on an attractive rent structure. RCL is an ideal partner for this model, as RCL is capable of bringing large passenger volume to Miami-Dade County, above and beyond its existing Miami throughput. Additionally, RCL has experience in the creation and management of development consortiums in domestic and international destinations, as well as development and operation of cruise ship facilities.

This MOU lays out certain pre-contract responsibilities for RCL and PortMiami, while summarizing the basic terms under which future binding documents will be developed for Board approval. Although much work remains to determine the cost ranges for various elements of this program, RCL will bear the full cost for constructing the cruise terminal, parking garage, ancillary facilities, and any bulkhead work. PortMiami will be responsible for environmental testing and remediation (if any), the provision of utilities to the development envelope, and providing suitable maintenance dredging of the channel and water depth between the channel and the berth. The Port anticipates the RCL investment entity will invest well over \$100 million during the construction phase of the project and that PortMiami will invest several million. PortMiami's estimated costs will be fully outlined in the binding contracts presented to the Board. The present value of the guaranteed portion of this long-term agreement should be approximately \$250 million for PortMiami after taking into consideration its up-front costs. These revenues (with the exception of the approximately \$1.2 million described above) were factored at the time the Port presented its financial projections to the rating agencies when it issued debt over the last two (2) years.

The timing of the MOU is extremely important, as the schedule to complete new Cruise Terminal A is aggressive, with the facility anticipated to become operational in 2018.

Substantive MOU Terms:

Pre-Development Work: PortMiami shall determine the land boundaries that encompass Cruise Terminal A and provide a footprint for RCL to master plan the project. Such County work shall entail cut/excavation/fill design studies, environmental studies, utility plans, and bathymetric plans. The County's pre-development work is expected to cost approximately \$500,000. Funds for this work are available from existing grant/bond proceeds.

RCL shall be responsible to master plan the agreed upon development envelope for Cruise Terminal A (approximately ten (10) acres) and lay out the pier, terminal, parking garage, and affiliated areas. In addition, RCL shall be responsible for construction cost estimates and schedules for the project.

Upon completion of the pre-development work identified in the MOU, the Parties will recommend to their respective boards the following documents for consideration and approval: Development Agreement, Ground Lease, and Terminal Operating Agreement.

Development Agreement: The Development Agreement will set forth the development responsibilities of the project for the Development Company and County. Prior to this Agreement, RCL shall incorporate a new, special purpose limited liability company in a U.S. jurisdiction to develop the project. RCL shall be entitled to bring in other investors in the Development Company and shall maintain a minimum of 20 percent ownership interest upon substantial completion of the project.

The Development Agreement will, among other items, complete the final design of the Master Plan for Cruise Terminal A (which shall incorporate requirements and logistical flows for Cruise Terminal AA to ensure that Cruise Terminal A and Cruise Terminal AA are separate but compatible), detail a project time line with milestone dates, and define the development obligations of the Parties. The project is intended to be complete no later than December 31, 2018. Upon completion of construction, the Development Company will own the non-real property including the cruise terminal and parking garage.

Ground Lease: The Development Company shall lease the land from the County for an initial period of 20 years, with RCL having the option to extend for up to four (4) additional terms of ten (10) years each. The base rent shall be \$9,500,000 per year and shall increase 1.5 percent compounded annually. A base rent adjustment formula will apply in the first year of each renewal period in the event that combined Port revenues for the previous term did not meet or exceed an agreed upon revenue goal. Additionally, an inflation test formula will be applied in the event the Ground Lease is renewed in either one or both of the last two (2) renewal periods. Both these formulas are further outlined in the MOU.

In addition to base rent, the County shall receive \$5.50 (escalating at 3 percent compounded annually) per passenger embarkation and passenger debarkation for every RCL passenger in excess of 1.55 million passenger moves at Cruise Terminal A annually.

At the expiration or termination of the Ground Lease, all of the Development Company's rights, title, and interest to the project shall cease and title to the project shall vest in the County at no cost to the County.

Terminal Operating Agreement: This Agreement shall govern the operation of the lease, including berthing rights at Cruise Terminal A and Port fees. The term of this Agreement shall be coterminous with the Ground Lease. The Development Company shall, at its own cost, maintain, repair, and replace leasehold improvements. Additionally, the County shall, at its own expense, maintain, repair and replace common areas outside the leased premise including maintenance dredging.

Berthing arrangements for non-RCL ships at Cruise Terminal A shall be at the County's discretion subject to berthing availability. Dockage and wharfage charges for non-RCL ships berthing at Cruise Terminal A shall be at the then-applicable Port Tariff rate. Procedures for making these berth arrangements, along with the revenue sharing formula, shall be detailed further in the Terminal Operating Agreement.

Other items under consideration in this MOU are (i) an Amendment to the current Terminal Usage Agreement relating to RCL's preferential berthing rights at Cruise Terminal G, (ii) extension options to the Lease Agreements for RCL's corporate office buildings located on the Port, and (iii) a potential option for RCL to construct and possibly operate Cruise Terminal AA.

The Effective Date of this MOU shall be the date executed by the County until one of the following occurs: (a) execution of the Ground Lease, Development Agreement, and Terminal Operating Agreement, (b) mutual agreement to terminate, or (c) one hundred twenty (120) days from the Effective Date (unless the Parties agree in writing to an extension).

Honorable Chairman Jean Monestime
and Members, Board of County Commissioners
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It is important to note that this type of structure benefits the Port significantly, as it incentivizes the cruise line to berth more vessels in Miami-Dade County. The more vessels that are processed at their facility, the higher the returns will be for both the cruise line and the Port.

A handwritten signature in black ink, appearing to read "Jack Osterholt", written over a horizontal line.

Jack Osterholt, Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: September 16, 2015

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

SUBJECT: Agenda Item No. 8(J)(2)

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 Mayor'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. 8(J)(2)
9-16-15

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE A NON BINDING MEMORANDUM OF UNDERSTANDING WITH ROYAL CARIBBEAN CRUISES, LTD. FOR THE LEASE OF LAND FOR, AND THE DESIGN, CONSTRUCTION, FINANCE, AND OPERATION OF, A CRUISE TERMINAL AND RELATED IMPROVEMENTS; DIRECTING THAT THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE NEGOTIATE ANY AND ALL CONTRACTS NECESSARY TO GIVE EFFECT TO THE INTENT OF THE MEMORANDUM OF UNDERSTANDING AND TO PRESENT THEM TO THE BOARD FOR APPROVAL WITHIN 120 DAYS; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXTEND TIME PERIODS IF REASONABLY NECESSARY TO FINALIZE NEGOTIATIONS UPON WRITTEN REPORT TO THE BOARD

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:

Section 1. This Board hereby authorizes the County Mayor or County Mayor's designee to execute the non-binding Memorandum of Understanding by and between the County and Royal Caribbean Cruises, Ltd. ("RCL"), providing for RCL to lease land from the County at the Port of Miami, and to design, build, finance, construct and operate a cruise terminal and related facilities such as bulkheads, berthing facilities, a parking garage and associated structures at the Port of Miami, substantially in the form of that attached to this resolution (the "MOU").

Section 2. This Board hereby directs the County Mayor or County Mayor's designee to negotiate any and all contracts necessary to give effect to the MOU, and to present them to this Board for approval, within 120 days of the effective date of this resolution.

Section 3. If reasonably necessary to finalize negotiation of the contracts, the County Mayor or County Mayor's designee is hereby authorized to extend the period set forth in Section 2 above upon written notice to this Board. To the same effect, and upon written notice to this Board, the County Mayor or County Mayor's designee is hereby authorized to execute any required extension to the term of the MOU in the manner provided in the MOU.

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:

Jean Monestime, Chairman

Esteban L. Bovo, Jr., Vice Chairman

Bruno A. Barreiro

Jose "Pepe" Diaz

Sally A. Heyman

Dennis C. Moss

Sen. Javier D. Souto

Juan C. Zapata

Daniella Levine Cava

Audrey M. Edmonson

Barbara J. Jordan

Rebeca Sosa

Xavier L. Suarez

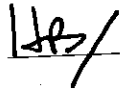
The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of September , 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override 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.



Hugo Benitez

MEMORANDUM OF UNDERSTANDING

BETWEEN

MIAMI-DADE COUNTY

AND

ROYAL CARIBBEAN CRUISES LTD.

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made this ____ day of _____, 2015 (the "Effective Date"), by and between:

- A. MIAMI-DADE COUNTY, a political subdivision of the State of Florida (hereinafter referred to as "County"), of the first part, and;
- B. ROYAL CARIBBEAN CRUISES LTD., a Liberian corporation (hereinafter referred to as "RCL"), of the second part.

Each of the above parties shall be hereinafter referred to as a "Party" and collectively, as the "Parties".

RECITALS:

WHEREAS, the County owns certain lands located in Miami-Dade County, Florida, on which the Dante B. Fascell Port of Miami-Dade (hereinafter the "Port") is located;

WHEREAS, the County operates the Port through the Miami-Dade County Seaport Department which is a department of the County;

WHEREAS, RCL is a leading international cruise company (with a number of cruise lines including Royal Caribbean International, Celebrity Cruises and Azamara Club Cruises) that presently uses the Port as a homeport, and RCL has experience in the creation and management of development consortiums in domestic and international destinations and the development and operation of cruise ship facilities and mixed-use projects;

WHEREAS, the Parties desire that RCL expand the cruise facilities in the Port by developing and constructing a new "Cruise Terminal A" to the east of existing "Cruise Terminal B" (the "Project").

WHEREAS, the Parties have decided to enter into this non-binding MOU which purpose is to summarize the basic principles and general terms contemplated by the Parties in order to prepare binding legal documentation and prepare for the implementation of the Project.

NOW THEREFORE, the understanding of the Parties is as follows:

1) **Project Description**

- a) The Project shall be built on approximately ten (10) acres of land located east of existing "Cruise Terminal B" (the "Leased Premises"), and shall consist of the construction of a cruise ship pier complex capable of accommodating cruise vessels up to four hundred (400) meters long and one hundred fifty (150) feet wide, in a homeport operational capacity, including a new bulkhead and apron (the "Pier"), an approximately one hundred seventy thousand (170,000) square foot cruise terminal ("Cruise Terminal A"), an extended passenger gangway attaching Cruise Terminal A (the "Gangway"), a provisions staging and loading area (the "Provisions Staging Area"), a bus and taxi staging area for cruise passengers (the "Transportation Staging Area"), and structured multi-tier parking garage with approximately one thousand (1,000) parking spaces (the "Parking Garage"). The berthing area and envelope for the Leased Premises is set forth on Exhibit A attached hereto and incorporated herein (the "Cruise Terminal A Project Area"); the Cruise

Terminal A Project Area is subject to change by mutual agreement of the Parties.

2) Pre-Development Period

a) RCL Pre-Development Work.

Beginning on the Effective Date, RCL, with the assistance of engineers, architects and other design professionals of RCL's choosing, shall undertake various pre-development work in order to provide RCL and the County with certain information required for the Development Company to undertake the Project (the "RCL Pre-Development Work"). The Pre-Development Work shall include the following:

1. Preparation of a preliminary master plan for the Project (the "Preliminary Master Plan"), including the envelope for the Leased Premises and lay out of the Pier, Terminal A and Parking Garage.
2. Preparation of construction cost estimates and schedules for the Project.

b) County Pre-Development Work

Beginning on the Effective Date, the County, with the assistance of engineers, architects and other design professionals of County's choosing, shall undertake various pre-development work in order to provide RCL and the County with certain information required for the Development Company to undertake the Project (the "County Pre-Development Work"). The Pre-Development Work shall include the following:

1. Determination of the bulkhead location and land boundaries that will encompass the Leased Premises, which determination shall be mutually agreed upon with RCL.
2. Land reclamation land cut/excavation design studies to determine location for the Pier, including thirty percent (30%) construction drawings.
3. Phase I and Phase II (if required) environmental studies, an environmental impact study to prepare for all required environmental approvals for the Project, an environmental remediation plan (if required), and a survey of the Leased Premises.
4. Preparation of a plan for the supply and interconnection of all available utilities to the Project including electricity, water, sewer, telecommunications and storm drainage.
5. Preparation of new, detailed local bathymetric charts showing water depths in development areas, as well as the approach channels and adjacent harbor/turning basin.

It is anticipated by the Parties that the activities set forth in this Section shall be completed, and yield results satisfactory to both Parties prior to and as a condition of execution of the Transaction Documents as defined in Section 8 below. However, in the event that such activities are not completed by the time that the Transaction Documents are executed, the Parties may in their discretion choose to provide for their completion in the Transaction Documents.

3) **Development Company**

Prior to the execution of the Transaction Documents, RCL shall incorporate a new, special purpose limited liability company in a U.S. jurisdiction of RCL's choosing. Ownership of the Development Company shall be determined in RCL's sole discretion, and RCL shall be entitled to bring in other investors if it so desires (subject to such investors meeting the existing rules and requirements for companies entering into contracts with the County). Upon substantial completion of the Project, RCL shall maintain at least a twenty percent (20%) ownership interest in the Development Company.

4) **Development Agreement**

The Parties are proposing, subject to the terms hereof, that the County and the Development Company enter into a development agreement (the "Development Agreement") which will set forth the development of the Project by the Development Company, and certain development obligations for the County with respect to the existing shoreline and the adjacent harbor/turning basin. The Development Agreement shall contain the following terms and conditions:

- a) Development Company and third party consultants (as necessary) shall work to complete the final design of the Project (the "Master Plan") within the boundaries of the mutually agreed upon Leased Premises. The Master Plan shall be submitted to the County for review and approval, the process of which shall be further detailed in the Development Agreement. In addition, the Development Company shall confirm the suitability of the land to be used for the Project, complete with geotechnical studies.
- b) In addition to the Project, the County's master plan for the Port includes the development and construction of a Cruise Terminal AA ("Cruise Terminal AA"), to be located adjacent to and directly east of Cruise Terminal A. The Master Plan shall incorporate requirements and logistical flows for Cruise Terminal AA to ensure that Cruise Terminal A and Cruise Terminal AA are separate but compatible.
- c) Development Company and the County will agree on a Project timeline including financing commitments, commencement of construction and the substantial completion dates, with the understanding that the Parties shall use commercially reasonable efforts to complete the Project by July 31, 2018 (the "Target Completion Date"). The Parties intend that the Project shall be substantially complete with a temporary certificate of occupancy no later than December 31, 2018, subject to force majeure events (the "Outside Completion Date").

- d) The County shall appoint a representative that will (i) assist RCL with obtaining and expediting all required permits and approvals and (ii) act as a liaison with Development Company regarding such permits and approvals. Notwithstanding this provision, at no time does the County waive its sovereign or governmental prerogatives, or its police power.
- e) The County shall obtain all required environmental permits and approvals for the bulkhead and landside in order to allow the Development Company to develop the Project.
- f) The County shall remediate all pre-existing environmental conditions at the Leased Premises, if any, at County's sole cost and expense as necessary to proceed with the construction of the Project. Development Company shall be responsible for all environmental conditions that occur at the site after taking possession of the Leased Premises.
- g) Development Company will arrange for capital financing of the Project through a combination of equity and debt, on terms agreeable to Development Company.
- h) Development Company shall negotiate and execute project development and service agreements with third parties to develop the Project, including design, engineering and environmental specialists, contractors and other specialists as needed. No public bid or tender shall be required in connection with the hiring of contractors and subcontractors. In constructing the Project, Development Company shall comply with all applicable State and County legal requirements, including but not limited to the bonding requirements under Section 255.05 of the Florida Statutes and the County Code provisions relating to the utilization of Community Small Business Enterprises.
- i) In order to facilitate development and construction of the Project, the County agrees to undertake certain development obligations at County's sole cost and expense. The County's development obligations shall be as follows:
 - 1) The initial required dredging and all required ongoing maintenance dredging in the development area and the adjacent harbor/turning basin to ensure that the waterway maintains a minimum depth of thirty six (36) feet at the chart datum.
 - 2) Supply and interconnection of all available utilities to the boundaries of the Leased Premises including electricity, water, sewer, telecommunications and storm drainage.
 - 3) Certain site work (including roads, sidewalks and curbs, lighting and landscaping) that will be agreed upon the Parties in the Development Agreement.
- j) Upon completion of construction, Development Company shall own the non-real property developed on the Leased Premises, including but not limited to

Terminal A and the Parking Garage (the "Leasehold Improvements"), for the duration of the Ground Lease and Terminal Operating Agreement.

5) Ground Lease

The Parties are proposing, subject to the terms hereof, that the County and the Development Company will enter into a ground lease (the "Ground Lease") whereby the County will lease the Leased Premises to Development Company. The Ground Lease shall contain the following terms and conditions:

- a) The Leased Premises shall consist of approximately ten (10) acres of land, the exact dimensions of which shall be identified by the Parties during the Pre-Development Period.
- b) Development Company shall lease the Leased Premises from the County for a period of twenty (20) years, commencing upon substantial completion of the Leasehold Improvements (the "Initial Term"). In addition, RCL will have the option to extend the Ground Lease for four (4) additional ten (10) year terms by providing the County with eighteen (18) months prior written notice (each, an "Extension Term"). If capital improvements to the Project are required during the final eight (8) years of the fourth Extension Term (if exercised), the Parties agree to use commercially reasonable efforts to negotiate a further extension of the Ground Lease to enable further capital investment in the Project by the Development Company.
- c) Base Rent for the Leased Premises shall commence on the date the first cruise ship berths at Terminal A, at a rate of Nine Million Five Hundred Thousand Dollars (\$9,500,000) per year ("Base Rent"). Base Rent shall be paid quarterly in arrears. Base Rent shall increase one and one half percent (1.5%) compounded annually, beginning in year two and extending throughout the entirety of the Initial Term and all Extension Terms, with the exception of a Base Rent adjustment formula that will be applied in the first year of each Extension Term (i.e., years 21, 31, 41, and 51). The application of the Base Rent adjustment formula may result in a Base Rent adjustment exceeding one and one half percent (1.5%), but only in the event that combined Port retained revenues from Base Rent, Additional Rent (as defined below), and Port - retained Non-RCL passenger charges at Terminal A (to be negotiated) for the final two (2) years of the then current term period (e.g. years 19 and 20 for the Initial Term) did not meet or exceed the Port Revenue Goal for the final two (2) years of such term. The Port Revenue Goal shall be defined as being Nine Million Five Hundred Thousand Dollars (\$9,500,000) in the first year of the Initial Term; in all subsequent years of the Ground Lease the Port Revenue Goal shall be escalated at three percent (3%) from the previous year. The Base Rent adjustment formula will compare total combined revenues (Base Rent, Additional Rent and Port retained non-RCL passenger charges at Terminal A) received by the Port during the final two (2) years of the current term with the aggregate Port Revenue Goal for same period. In the event that the aggregate Port Revenue Goal is not met or exceeded by the total combined revenues received by the Port, the Base Rent shall be adjusted by the higher of the following: (i) one and one half percent (1.5%) and (ii) seventy percent (70%)

of the difference that may exist between the average total combined revenues of the final two (2) years of the current term as compared to the Port Revenue Goal for the same previous two (2) years.

A second formula (inflation test formula) will be applied in the event the third Extension term (year 41) and fourth Extension Term (year 51) are exercised. The inflation test is comprised of taking the fair market value of the Leased Premises, which the Parties agree is Three Million Dollars (\$3,000,000) in the first year of the Ground Lease base year, and escalating it by the change in the Consumer Price Index (U.S. - all Urban Areas) each year until the renewal year in question. Should the average of the total combined revenues received in the previous two years (e.g. years 39 and 40) differ from the inflation adjusted fair market value ground rent by more than thirty percent (30%), then the Base Rent shall be adjusted up or down so that it does not differ by more than thirty percent (30%) from the inflation test calculation.

- d) In addition to the Base Rent, Development Company shall pay the County Five and 50/100 Dollars (\$5.50) per RCL brand passenger move (in and out) for every RCL brand passenger move in excess of One Million Five Hundred Fifty Thousand (1,550,000) moves at Terminal A during each year of the Ground Lease ("Additional Rent"). Additional Rent shall be paid quarterly in arrears. The per passenger rate shall be subject to three percent (3.0%) compounded annual increases beginning in year two. The payment to the County for non-RCL brand passengers will be determined in the Transaction Documents.
- e) The County agrees to also provide to Development Company continuously during the term of the Ground Lease, and to maintain and repair, infrastructure for all utility service to the boundary of the Leased Premises. The Development Company shall be responsible for constructing and maintaining all utilities within the boundary of the Leased Premises.
- f) During the term of the Ground Lease, Development shall own the Leasehold Improvements and shall be responsible for all required maintenance and repairs to Terminal A, the Gangways, the Provisions Staging Area, the Transportation Staging Area and the Parking Garage. The County shall be responsible for maintenance of the Pier including all fenders and bollards.
- g) Development Company shall have the right to grant a first priority charge, mortgage, deed of trust, deeds or other lien on all rights, title and interest of the Development Company in the Ground Lease, the Leasehold Improvements and the Leased Premises to one or more lenders that will provide financing for the Project; provided however that the terms governing same shall first be approved by the County, which approval shall not be unreasonably withheld. In no event however, shall Development Company mortgage the fee simple title of the Leased Premises.
- h) Upon the natural expiration or earlier termination of the term of the Ground Lease, all of Development Company's right, title, and interest to the Project or any part thereof shall *ipso facto* cease and terminate, and title to the Project

shall vest in the County (including all improvements, furniture, fixtures and equipment) at no cost to the County.

6) Terminal Operating Agreement

The Parties are proposing, subject to the terms hereof, that the County and the Development Company will enter into a terminal operating agreement (the "Terminal Operating Agreement") that shall govern Development Company's operation of the Leasehold Improvements. The Terminal Operating Agreement shall contain the following terms and conditions:

- a) The term shall be coterminous with the Ground Lease, commencing upon substantial completion of the Leasehold Improvements.
- b) Development Company shall be responsible for providing all employees required to operate and maintain the Leasehold Improvements.
- c) Development Company shall, at its own cost and expense, maintain, repair and replace as necessary the Leasehold Improvements, except to the extent the same is caused by the negligent action or inaction of the County, its employees or agents, in which case the County shall be responsible for the cost of such repairs. In addition, Development Company shall maintain all of the Leasehold Improvements in first-class condition. Development Company shall maintain reserves for maintenance and capital improvements in amounts to be agreed upon in the Terminal Operating Agreement. No maintenance/capital reserves shall be required during the final ten (10) years of the fourth Extension Term unless a further term extension is agreed to by the Parties.
- d) The County shall at its own cost and expense, maintain, repair and replace common areas such as roads, sidewalks and curbs, lighting, and landscaping, outside the boundaries of the Leased Premises; provided however that within the Leased Premises, the County shall maintain only those areas as identified in the Terminal Operating Agreement.
- e) The County shall periodically undertake all required maintenance dredging in the adjacent harbor/turning basin to ensure that the waterway maintains a minimum depth of thirty six (36) feet at the chart datum.
- f) Development Company shall have uninterrupted access to the Leasehold Improvements on a 365, 24/7 basis except for emergencies or resulting from the exercise of regulatory or police power.
- g) Development Company shall be entitled in its sole discretion to erect or display directional signs and advertising materials within the confines of Terminal A and the Parking Garage. The placement of exterior signs and advertising shall be the right and responsibility of the County, provided, however, Development Company, subject to applicable laws and zoning requirements, may at its sole cost and expense erect a RCL brand Class B sign on the exterior of Terminal A and/or the Parking Garage. Any signs erected by or on behalf of Development

Company shall be in accordance with County's sign ordinance, as well as other applicable laws.

- h) The dockage and wharfage fees at Terminal A (the "Port Fees") shall be established as follows: (i) for RCL brands, Development Company shall provide notice to the County prior to each contract year of the Port Fees to be charged for the following year, and (ii) for non-RCL brands, Development Company shall charge the then current published Tariff Port Fees.
- i) The County shall handle the invoicing and collection of all Port Fees incurred at Terminal A; similar to all other cruise terminals at the Port. Development Company shall derive revenues from the Port Fees collected at Terminal A, following payment of Rent and Additional Rent to County, all in the amount and in the manner of payment and collection set forth in the Transaction Documents.
- j) Development Company shall have the right to enter into a terminal usage agreement with RCL on terms and conditions mutually agreeable to the parties. The terminal usage agreement may provide RCL with preferential berthing at Terminal A at mutually agreeable Port Fees.
- k) Berthing arrangements for Terminal A with non-RCL brand ships shall be at County's discretion and shall be subject to RCL's preferential berthing rights and availability of the berth. Procedures for the booking process and the requirements and limitations associated therewith shall be mutually agreed upon and further detailed in the Terminal Operating Agreement.
- l) Development Company shall be solely responsible for the operation of the Parking Garage and shall be entitled to all revenues derived therefrom. Fees charged at the Parking Garage shall be in Development Company's sole discretion.

7) Other Matters

The following items shall additionally be negotiated as part of the foregoing transaction:

- a) A potential option for RCL to construct and potentially use and operate Terminal AA;
- b) An amendment to the existing Amended and Restated Terminal Usage Agreement between County and RCL to extend the term, along with either reaffirming or mutually resetting RCL's annual guarantee and preferential berthing rights at Terminal G; and
- c) Additional extensions options to those certain Office Building Lease Agreements for the RCL corporate offices located at 1050 and 1080 Caribbean Way (the "Office Lease Agreements"), to provide that the Office Lease Agreements are coterminous with the Transaction Documents.

8) Termination

This MOU shall be effective from the Effective Date until one of the following occurs:

- a) Execution and delivery of the Ground Lease, Development Agreement, Terminal Operating Agreement (the "Transaction Documents"); or
- b) Mutual agreement of the Parties to terminate; or
- c) One hundred twenty (120) days from the Effective Date, unless the Parties agree in writing to an extension.

Upon termination of this MOU, this MOU shall terminate automatically without further notice.

9) Form of Transaction Documents

The description of the Transaction Documents set forth herein is for ease of reference and general description of the transaction contemplated between the Parties. The ultimate Transaction Documents to be executed by the Parties may be more, or fewer, in number, and may be renamed to accomplish the intent of the Parties.

10) Effect of this MOU

The description of the Project and the terms set forth herein are intended to be non-binding and the description and contemplated terms shall be subject to and superseded by the terms and conditions to be negotiated, approved and included in the Transaction Documents, which documents shall comply with all applicable laws, all applicable deed and land-use restrictions, all applicable zoning requirements and approvals, and all existing and applicable County bond ordinances and associated restrictions. In the event any element of the contemplated Project or Transaction Documents cannot be achieved or implemented due to legal issues or impediments, the parties will attempt in good faith to explore alternative viable options or elements.

[Signature page to follow]

IN WITNESS WHEREOF, the Parties have executed this MOU as of the date written below.

Signed, sealed and delivered
in the presence of:

MIAMI-DADE COUNTY,
FLORIDA, a political subdivision
of the State of Florida

By: _____
Carlos A. Gimenez
County Mayor

Approved as to legal form and sufficiency

ATTEST:
CLERK OF THE BOARD

Assistant County Attorney

By: _____
Deputy Clerk

Signed, sealed and delivered

ROYAL CARIBBEAN CRUISES LTD.

ATTEST:

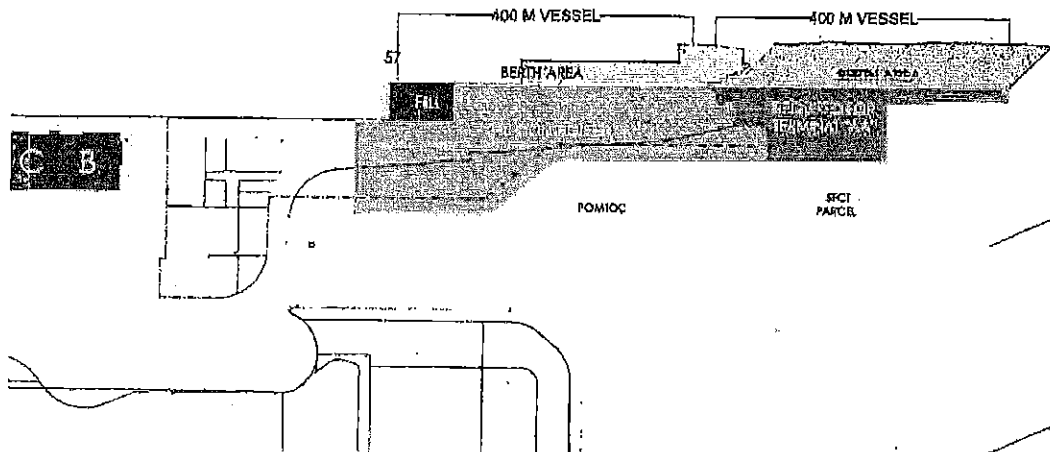
By: Adam M. Goldstein
Name: Adam Goldstein
Title: President + COO

By: _____



EXHIBIT A

Cruise Terminal A Project Area



1. The grey areas (light and dark) indicate the envelope that the Port intends to construct (or have constructed) Terminal "A" and Terminal "AA" facilities.
2. The MOU provides that the construction of Terminal "A" facilities will be entirely within Port controlled land as delineated (light grey area).
3. The binding documents will contain a full survey, with coordinates, and a Master Plan for the construction of Terminal "A" facilities and a proposed footprint for Terminal "AA".

EXHIBIT A
CRUISE TERMINAL "A"
PROJECT AREA