

Date: May 5, 2009

To: Honorable Dennis C. Moss and Members,  
Board of County Commissioners

From: George M. Burgess  
County Manager

Subject: Resolution Authorizing Amendment No. 1 to the Business Settlement  
Agreement between Miami-Dade County and Royal Caribbean Cruises Ltd.  
Related to Outstanding Business Issues

Agenda Item No. 8(Q)(1)(A)

Resolution No. R-538-09

### **RECOMMENDATION**

It is recommended that the Board approve the accompanying resolution authorizing execution of Amendment No. 1 to the Business Settlement Agreement ("Business Agreement") between Miami-Dade County ("County") and Royal Caribbean Cruises Ltd. ("RCCL"), related to outstanding business issues.

### **SCOPE**

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

### **FISCAL IMPACT/FUNDING SOURCE**

This Amendment No. 1 has no fiscal impact to the County or Port of Miami, but it does seek to clarify certain RCCL payment terms under the Business Agreement as they relate to the Facility Maintenance and Improvement Fee ("FMI Fee"). The original FMI Fee was imposed by the County during Fiscal Year 2006-07. RCCL and the County previously agreed that RCCL will pay the County \$1,139,480.32 in three (3) installments. The first payment in the amount of \$284,870.08 shall be paid within ten (10) business days of the effective date of this Amendment No. 1; the second payment in the amount of \$284,870.08 shall be issued upon the Port's offering of Phase 2 of the Unitary Fee as defined in the Business Agreement; and the third and final payment in the amount of \$569,740.16 shall be paid by RCCL to the County upon the Port's offering of Phase 3 of the Unitary fee as defined in the Business Agreement, or by September 30, 2009, whichever occurs later.

### **TRACK RECORD/MONITOR**

With the approval of the Business Settlement Agreement, all past due obligations of the respective parties were settled and payments phases were established. With these payments RCCL receivables account will be current. This amendment has no fiscal impact to the County.

The Seaport Department staff members responsible for monitoring the Settlement Agreement and Amendment No. 1 are Juan Kuryla, Assistant Port Director, Maritime Services; Kevin Lynskey, Business Initiatives Manager; and Hydi Webb, Business Development Manager.

### **BACKGROUND**

On December 2, 2008, the Board approved Resolution No. R-1345-08, which authorized the execution of the Business Settlement Agreement ("Business Agreement") between Miami-Dade County and Royal Caribbean Cruises Ltd. Relating to Outstanding Business Issues. Among the

terms of the Business Agreement, the Port committed to implement a more comprehensive service delivery model to include an expanded role of various mutually agreed-upon services, as well as simplify its billing process to RCCL by bundling certain Port costs into the Unitary Fee. The implementation of this new service delivery model further linked RCCL's commitment to pay \$1,139,480.32 for its outstanding balance towards the FMI Fee owed to the County from FY 2006-2007.

At the request of RCCL, the Port has agreed to submit Amendment No. 1 for consideration by the Board of County Commissioners. RCCL has requested certain changes to their payment terms that are meant to clarify RCCL's internal accounting treatment of its payment obligation. Consequently, the County has agreed to bring forward language changes as they have no fiscal impact on the County.

Under the terms of this proposed Amendment, beginning with RCCL voyages departing June 1, 2009, and continuing until payment of \$1,139,480.32 has been made, RCCL shall pay to the County the FMI Fee equal to \$0.64 per each cruise passenger embarking and \$0.64 per each cruise passenger disembarking a RCCL Vessel at the Port. RCCL shall remit the FMI Fee by receiving a credit from the County of \$0.64 for each cruise passenger embarking and \$0.64 for each cruise passenger disembarking a RCCL Vessel against the advance payments which shall be made by RCCL to the County as follows: (1) \$284,870.08 shall be paid by RCCL to the County within ten (10) business days of the effective date of this Amendment No. 1; (2) \$284,870.08 shall be paid by RCCL to the County upon the Port's offering in writing of Phase 2 of the Unitary Fee; and (3) \$569,740.16 shall be paid by RCCL to the County upon the Port's offering in writing of Phase 3 of the Unitary Fee, or by September 30, 2009, whichever occurs later.

RCCL agrees to pay the FMI Fee during the time specified regardless of whether or not it sunset on a prior date. Upon full payment of the \$1,139,480.32 by RCCL, the County shall release RCCL including its affiliates from claims, penalties and late charges specifically related to the Facilities Fee. It is anticipated that full payment to the County will be received by the close of Fiscal Year 2009 as the Port remains on schedule to offer Phases 2 and 3 of the Unitary Fee as previously outlined in the Business Agreement. Future items will be presented to the Board for approval of these phases.

  
Assistant County Manager



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners

**DATE:** May 5, 2009

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

**SUBJECT:** Agenda Item No. 8(Q)(1)(A)

Please note any items checked.

- "4-Day Rule" ("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
- Bid waiver requiring County Mayor's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(Q)(1)(A)  
5-5-09

RESOLUTION NO. R-538-09

RESOLUTION AUTHORIZING EXECUTION OF AMENDMENT NO. 1 TO THE BUSINESS SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND ROYAL CARIBBEAN CRUISES LTD.; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AMENDMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY

**WHEREAS**, by Resolution No. R-1345-08 this Board approved the Execution of the Business Settlement Agreement between Miami-Dade County and Royal Caribbean Cruises Ltd. (“Business Settlement Agreement”); and

**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 authorizes the County Mayor or County Mayor's designee to execute Amendment No. 1 to the Business Settlement Agreement between Miami-Dade County and Royal Caribbean Cruises Ltd. substantially in the form attached hereto and made part hereof, and to exercise any cancellation and renewal provisions therein.

The foregoing resolution was offered by Commissioner **Jose “Pepe” Diaz**, who moved its adoption. The motion was seconded by Commissioner **Carlos A. Gimenez** and upon being put to a vote, the vote was as follows:

**Resolution No. R-538-09**

Agenda Item No. 8(Q)(1)(A)

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Dennis C. Moss, Chairman	<b>aye</b>		
Jose "Pepe" Diaz, Vice-Chairman	<b>aye</b>		
Bruno A. Barreiro	<b>aye</b>	Audrey M. Edmonson	<b>aye</b>
Carlos A. Gimenez	<b>aye</b>	Sally A. Heyman	<b>aye</b>
Barbara J. Jordan	<b>aye</b>	Joe A. Martinez	<b>aye</b>
Dorrin D. Rolle	<b>aye</b>	Natacha Seijas	<b>aye</b>
Katy Sorenson	<b>aye</b>	Rebeca Sosa	<b>absent</b>
Sen. Javier D. Souto	<b>aye</b>		

The Chairperson thereupon declared the resolution duly passed and adopted this 5th day of May, 2009. This resolution shall become effective 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.



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

HARVEY RUVIN, CLERK

By: **Diane Collins**  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

Richard Seavey

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**AMENDMENT NO.1 TO THE BUSINESS SETTLEMENT AGREEMENT  
BETWEEN MIAMI-DADE COUNTY AND ROYAL CARIBBEAN CRUISES LTD.  
RELATED TO OUTSTANDING BUSINESS ISSUES**

**THIS AMENDMENT NO. 1** is entered this \_\_\_ day of May, 2009, by and between Miami-Dade County, Florida, a political subdivision of the State of Florida ("County") and Royal Caribbean Cruises Ltd. ("RCCL"), a Liberian corporation. The County and RCCL are jointly referred to as the "Parties."

**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**, on December 2, 2008, by Resolution No. R-1345-08, the County's Board of County Commissioners approved the Business Settlement Agreement Between Miami-Dade County and Royal Caribbean Cruises Ltd. Related to Outstanding Business Issues (the "Business Agreement") resolving certain outstanding business issues between the Parties; and

**WHEREAS**, the Parties seek to amend the Business Agreement to implement further resolutions between the Parties of outstanding business issues.

**NOW, THEREFORE**, in consideration of the mutual covenants, and agreements herein contained, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. The Business Agreement shall be amended as follows:

Section 6 of the Business Agreement shall be deleted in its entirety and shall be replaced with the following:

6. On September 20, 2006 as part of its fiscal year 2006-07 budget, the County imposed a Facilities Maintenance and Improvement Fee of \$0.64 for each cruise passenger embarking and \$0.64 for each passenger debarking at the Port. Beginning with RCCL voyages departing June 1, 2009, and continuing until payment of \$1,139,480.32 has been made, RCCL agrees to pay to the County a Facilities Maintenance and Improvement Fee (the "Facilities Fee") equal to \$0.64 for each cruise passenger embarking and \$0.64 for each cruise passenger disembarking a RCCL Vessel (as that term is defined in the 1998 TUA) at the Port. RCCL agrees to pay the Facilities Fee beginning on the date specified in the preceding sentence and continuing until the Facilities Fee is fully satisfied, regardless of whether or not the Facilities Fee sunsets (or has sunset) on a prior date. RCCL shall remit the Facilities Fee by receiving a credit from the County of \$0.64 for each cruise passenger embarking and \$0.64 for each cruise passenger disembarking a RCCL Vessel against the advance payments of the Facilities Fee which shall be made by RCCL to the County as follows: (1) \$284,870.08 shall be paid by RCCL to the County within ten (10) business days of the effective date of this Amendment No. 1; (2) \$284,870.08 shall be paid by RCCL to the County upon the Port's written offering of Phase 2 of the Unitary Fee to RCCL; and (3) \$569,740.16 shall be paid by RCCL to the County upon the Port's written offering of Phase 3 of the Unitary Fee to RCCL, or by September 30, 2009, whichever occurs later. Upon full payment of the \$1,139,480.32 by RCCL, the County shall release RCCL and its affiliates from any and all claims, penalties and late charges specifically related to the Facilities Fee.

2. All terms and conditions of the Business Agreement not modified by this Amendment No. 1 shall remain in full force and effect.

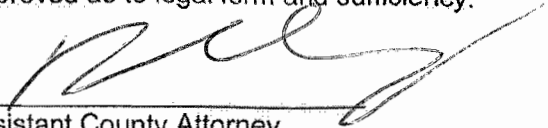
3. This Amendment No.1 shall be governed by Florida Law.

IN WITNESS WHEREOF the parties have caused this Amendment No. 1 to be executed in their respective corporate names by their appropriate officers, and have their respective corporate seals affixed thereto, all as of the day and year first written above.


**MIAMI-DADE COUNTY**

By \_\_\_\_\_  
Name:  
Title:

Approved as to legal form and sufficiency:

  
Assistant County Attorney

**ROYAL CARIBBEAN CRUISES LTD.**

By   
Name: CRAIG MILAN  
Title: SUP. LAND OPERATIONS

