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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

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

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

DATE: May 3, 2011

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

SUBJECT: Resolution authorizing execution of Amendment No. 2 to the Cruise Terminal Agreement between Miami-Dade County and Carnival Corporation

Resolution No. R-343-11

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

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: May 3, 2011

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

From: Alina T. Hudak
County Manager

Subject: Resolution Authorizing Execution of Amendment No. 2 to Cruise Terminal Agreement between Miami-Dade County and Carnival Corporation

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RECOMMENDATION

It is recommended that the Board approve the accompanying resolution authorizing the execution of Amendment No. 2 to the Cruise Terminal Agreement ("Agreement") between Miami-Dade County ("County") and Carnival Corporation ("Carnival").

SCOPE

The Port of Miami is located within District 5 – Commissioner 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 Miami-Dade County.

FISCAL IMPACT/FUNDING SOURCE

This Amendment provides Carnival incentives to Home Port the new *Carnival Breeze* in Miami beginning in the fall of 2012. Home Porting this new vessel in Miami will bring an anticipated net increase of 250,000 new passengers annually to the Port beginning in Fiscal Year 2013. Should a third berth become available at the Port commencing in November 2012, the net effect of the *Breeze* at the Port of Miami will increase to an additional 400,000 passengers, as Carnival will be able to keep another vessel in Miami.

Carnival currently pays the County a Minimum Annual Guarantee ranging from $20,400,000 in Fiscal Year 2011 to $25,100,000 in Fiscal Year 2018. This Amendment will increase Carnival's estimated revenues to the County beginning in Fiscal Year 2013 by a range $1,150,000 to $2,100,000 annually depending on its passenger threshold each year.

Carnival will Home Port the *Breeze* in Miami for a minimum of two (2) years (through Fiscal Year 2014) and the *Breeze* or another vessel in the Dream-class through September 30, 2018. The County commits to making terminal improvements to Terminal D as per the attached Exhibit C. These modifications are necessary to accommodate the larger Dream-class vessel and are estimated to cost $15,000,000. These improvements are included in the Port's Fiscal Year 2011 through Fiscal Year 2013 capital budgets, with funding for such improvements coming from available and future bond proceeds. These improvements will also benefit all other ships berthing at this terminal facility.

TRACK RECORD/MONITOR

The Seaport Department staff members responsible for monitoring the Amendment and Agreement are Juan Kuryla, Deputy Port Director, Kevin Lynskey, Assistant Port Director, Business Initiatives, and Hydi Webb, Business Development Manager.

BACKGROUND

The Port of Miami and Carnival have shared a successful business relationship for 39 years. Carnival Corporation is the worldwide leader in the cruise industry, operating a fleet of 98 vessels with another 10 vessels on schedule for delivery by spring 2014.

Carnival has a total of ten (10) cruise brands of which Carnival Cruise Lines is the largest. Carnival is also the Port's largest cruise customer in terms of passenger volume and revenue. Carnival has processed more than 1.8 million passengers annually through Miami throughout the last five (5) years, generating in excess of $78 million in Port revenues. These numbers represent more than forty-five percent (45%) of the Port's cruise volume.

On October 20, 1998, the Board approved Resolution R-1196-98, which authorized the execution of a Terminal Usage Agreement with Carnival for the purpose of conducting cruise vessel berthing operations at the Port. The Agreement has a fifteen (15) year term with a five (5) year renewal period at Carnival's option, exercisable in 2013. The Agreement was profitable for both parties as it has provided the Port with significant guaranteed passenger volumes and revenues throughout the years. Subsequently, on June 15, 2010, the Board approved Resolution R-967-10 executing the negotiated option period and extended the term of the Agreement for five (5) years through Fiscal Year 2018. Amendment No. 1 further outlines the new Minimum Annual Guaranteed Payments based on combining Port fees into a per passenger "Unitary Fee".

Carnival has an aggressive new ship building program. Both Carnival and the Port have been working diligently over the last few months to secure Miami as the Caribbean Home Port to its new 130,000-ton *Carnival Breeze* ("*Breeze*"), which is expected for delivery in spring 2012. The 3,690- passenger *Breeze* will be Carnival's third vessel in the Dream-class, its largest-class vessel to date. The *Breeze* will sail its inaugural season in Europe followed by a year-round Caribbean itinerary from South Florida beginning in the fall 2012. Carnival intends to announce this deployment schedule upon the Board approving this Amendment.

Responding to the opportunity to Home Port the new *Breeze* in Miami, the proposed Amendment No. 2 to the Agreement is respectfully recommended for approval. Under the terms of the Amendment, Carnival commits to Home Porting the *Breeze* in Miami for a minimum of two (2) years (through Fiscal Year 2014) and the *Breeze* or another vessel in the Dream-class through September 30, 2018. It is anticipated that the *Breeze* will bring an estimated net 250,000 additional passengers annually to the Port.

In order to receive this new ship and pledge, Carnival will receive the following incentives/improvements:

- Marketing Incentive: the County will provide an annual marketing incentive to Carnival for bringing a new ship to Miami. This payment is based on the total number of passengers which Carnival Home Ports above its current annual

average of 1,800,000 passengers in accordance with the thresholds outlined in Exhibit A. The applicable marketing incentive will be paid to Carnival by the County within sixty (60) days of the close of each Fiscal Year.

- The cap on the water component of the Unitary Fee will increase in Fiscal Year 2013 coinciding with the arrival of the *Breeze* in accordance with the schedule in Exhibit B. Should Carnival's costs for water usage exceed the Water Usage Cap during any fiscal year, Carnival shall pay the County the prevailing rate for the excess water used.
- Terminal Improvements – the County commits to making terminal improvements to berth the *Breeze* and process its passengers at Terminal D as outlined in Exhibit C. These improvements, estimated to cost approximately $15,000,000, include additional seating, a terminal build out and expansion project, additional vertical integration between terminal levels, baggage conveyor upgrades, two new passenger boarding bridges, and runway improvements. The County is solely responsible for any costs that exceed the initial estimate for these improvements. Such improvements will be substantially completed no later than October 15, 2012.

The effective date of this Amendment shall be after approval of this Amendment No. 2 by the Miami-Dade County Board of County Commissioners and the expiration of any applicable Mayoral Veto period. Carnival is headquartered in Miami-Dade County and currently employs 3,800 shoreside employees. It is estimated that Carnival has a total economic impact of more than $1 billion annually in Miami-Dade County. These extraordinary contributions to the cruise industry and sizable economic impact make Carnival an extremely valuable business partner.

DELEGATED AUTHORITY

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the resolution which include the authority for the Mayor or designee to execute the Amendment.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: May 3, 2011

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

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

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

5

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(Q)(1)(A)
5-3-11

RESOLUTION NO. R-343-11

RESOLUTION AUTHORIZING EXECUTION OF AMENDMENT NO. 2 TO THE CRUISE TERMINAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CARNIVAL CORPORATION; AND AUTHORIZING THE MAYOR OR THE MAYOR'S DESIGNEE TO EXECUTE THE AMENDMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS THEREIN

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:

Section 1. Approves the execution of Amendment No. 2 to the Cruise Terminal Agreement between Miami-Dade County and Carnival Corporation in substantially the form attached hereto and made a part hereof; and

Section 2. Authorizes the Mayor or the Mayor's Designee to execute this Amendment No. 2 after review and approval by the County Attorney's Office and to exercise any cancellation and renewal provisions therein.

The foregoing resolution was offered by Commissioner **Sally A. Heyman** ,

who moved its adoption. The motion was seconded by Commissioner **Bruno A. Barreiro**

and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman			aye
Audrey M. Edmonson, Vice Chairwoman			aye
Bruno A. Barreiro	aye	Lynda Bell	aye
Jose "Pepe" Diaz	absent	Sally A. Heyman	aye
Barbara J. Jordan	aye	Jean Monestime	aye
Dennis C. Moss	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of May, 2011. 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

Amendment No. 2 to the Cruise Terminal Agreement
Between Miami-Dade County and Carnival Corporation

THIS AMENDMENT No. 2 ("Amendment No. 2") is made and entered into this _____ day of April, 2011, by and between Miami-Dade County, Florida, a political subdivision of the State of Florida, hereinafter referred to as the "County," which owns and operates the Dante B. Fascell Port of Miami-Dade, hereinafter referred to as the "Port," and Carnival Corporation, a Panamanian corporation, hereinafter referred to as "Carnival."

WHEREAS, Carnival is the largest cruise company in the world and operates a fleet of 98 vessels (with another ten vessels scheduled for delivery by Spring 2014); and

WHEREAS, Carnival is the Port's largest cruise customer and has handled an average of 1.8 million passengers annually over the past five (5) years; and

WHEREAS, on October 20, 1998, the Miami-Dade Board of County Commissioners (the "Board") approved a Cruise Terminal Agreement between the County and Carnival by Resolution No. R-1196-98, as amended by Amendment No. 1 dated June 30, 2010 approved by Resolution No. 697-10 (together, the "Agreement"); and

WHEREAS, Carnival intends to Home-Port the Carnival Breeze (or same class ship) at the Port, commencing on or about December 1, 2012 through the end of the Term of the Agreement, bringing an estimated 400,000 cruise passengers annually (total passenger movements) to the Port; and

WHEREAS, The County has agreed to provide Carnival with financial and other incentives to bring more cruise passengers to the Port thereby increasing the revenues received by the County over and above the minimum annual guaranteed payments set forth in the Agreement; and

WHEREAS, capitalized terms used herein but not defined shall have the meanings set forth in the Agreement

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

1. The effective date of this Amendment No. 2 shall be upon execution after approval of this Amendment No. 2 by the Miami-Dade County Board of Commissioners and the expiration of any applicable Mayoral Veto period.

2. Subject to the terms of the Agreement and this Amendment No. 2, Carnival hereby agrees to Home-Port the Carnival Breeze for a minimum of two years

commencing December 1, 2012, and the Carnival Breeze or same class vessel at the Port until September 30, 2018.

3. In recognition of Carnival's Home-Port commitment of the Carnival Breeze and the increased number of cruise passengers that will come to the Port, the County shall provide Carnival with the following additional benefits:

   (i) Payment of an annual marketing incentive in the amount set forth in ***Exhibit A*** hereto for each Fiscal year (commencing with Fiscal Year 2011), subject to and based on the passenger thresholds set forth therein. County shall pay Carnival the incentives due pursuant to ***Exhibit A*** within sixty (60) days of the end of each Fiscal Year. The above incentives shall be in addition to any other payments or financial incentives payable by the County to Carnival under the Agreement;

   (ii) Section 3(c)(i) of the Agreement is amended to increase the cap on the annual water usage included within the Unitary Fee in accordance with the schedule in ***Exhibit B***; and

   (iii) The County shall design, build and undertake, at its sole cost and expense, the improvements set forth in ***Exhibit C*** hereto and shall complete all such improvements by no later than October 15, 2012. Prior to commencing the design, build and undertaking of such improvements, the County shall have consulted with Carnival with respect to the design of the improvements. Such design is subject to the approval of Carnival as to functionality and provided the work is included within the improvements listed in Exhibit C, such approval not to be unreasonably withheld. The County shall build and undertake the improvements in conformity with the approved designs.

4. The Agreement, as amended by this Amendment No. 2 and all of the terms, conditions, and warranties contained therein, are hereby reaffirmed and shall continue in full force and effect except as specifically modified by this Amendment No. 2.

5. The whereas clauses set forth above are incorporated into the body of this Amendment No. 2 as if fully set forth herein.

6. This Amendment No. 2 shall be governed by Florida Law.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 2 to be executed in their respective corporate names by the appropriate officers, and have their respective corporate seals to be affixed hereto, all as of the day and year first written above.

CARNIVAL CORPORATION

By: _____

ATTEST:

By: _____

MIAMI-DADE COUNTY, FLORIDA

_____

ATTEST:

Clerk of the Board

____. Approved as to form and legal sufficiency

Amendment No. 2 to the Cruise Terminal Agreement
Between Miami-Dade County and Carnival Corporation
Exhibit A

As an incentive to Carnival to Home-Port the Carnival Breeze or same class ship at the Port, the County will provide an annual marketing incentive payment based on the total number of passengers which Carnival brings to the Port during each Fiscal year (commencing with Fiscal Year 2011) in accordance with the following schedule:

Passenger Threshold (1)	***Fiscal Year 2011 Incentive (2)***
1,900,000 to 1,950,000	$260,000 (3)
1,950,001 to 2,000,000	$520,000 (3)
2,000,001 to 2,050,000	$780,000 (3)
2,050,001 to 2,100,000	$1,040,000 (3)
2,100,001 to 2,150,000	$1,300,000 (3)
2,150,001 to 2,200,000	$1,560,000 (3)
2,200,001 to 2,250,000	$1,820,000 (3)
2,250,001 to 2,300,000	$2,080,000 (3)
2,300,001 to 2,350,000	$2,340,000 (3)
2,350,001 and greater	$2,600,000 (3)

(1) Passengers In and Out (total passenger movements) based on ship manifest
(2) The incentive amount is not cumulative and will correspond to the achievement of each passenger threshold (example: If Carnival generates 2,075,000 passengers (in and out), the incentive amount would be $1,040,000)
(3) Incentive will increase by 3% annually for Fiscal Years 2012 through 2018

Amendment No. 2 to the Cruise Terminal Agreement
Between Miami-Dade County and Carnival Corporation
Exhibit B

As an incentive to Carnival to Home-Port the Carnival Breeze or same class ship at the Port, the County will provide an annual amount of water usage in accordance with Section 3 (c) (i) of the Agreement. The amount of the annual water usage cap (commencing in Fiscal Year 2011) is amended as follows:

Passenger Threshold (1)	***Water Usage Cap FY 2011 (2)***
Up to 1,899,999	$1,150,000 (3)
1,900,000 to 1,950,000	$1,181,000 (3)
1,950,001 to 2,000,000	$1,212,000 (3)
2,000,001 to 2,050,000	$1,243,000 (3)
2,050,001 to 2,100,000	$1,274,000 (3)
2,100,001 to 2,150,000	$1,305,000 (3)
2,150,001 to 2,200,000	$1,336,000 (3)
2,200,001 to 2,250,000	$1,367,000 (3)
2,250,001 to 2,300,000	$1,398,000 (3)
2,300,001 to 2,350,000	$1,429,000 (3)
2,350,001 and greater	$1,460,000 (3)

(1) Passengers In and Out (total passenger movements) based on ship manifest
(2) The incentive amount is not cumulative and will correspond to the achievement of each passenger threshold (example: If Carnival generates 2,075,000 passengers (in and out), the water usage cap would be $1,274,000)
(3) The water usage cap will increase by 3% annually for Fiscal Years 2012 through 2018

Amendment No. 2 to the Cruise Terminal Agreement Between Miami-Dade County and Carnival Corporation Exhibit C

Phase 1 - already commenced
10 new 150 Ton Dockside Mooring Bollards Wi-Fi Capabiltiy in the terminal and pierside
Phase 2
Increase seat count to 642 • *Purchase 1,190 Additional Chairs and rework seating layout* • *Final total of 824 total for Cruise Terminal E (317 currently + 507 = 824)* • *Final total of 1,000 total for Cruise Terminal D (317 currently + 683 = 1,000)*
Phase 3
2nd Floor Interior Construction with additional seating, enhanced horizontal circulation, infrastructure for Facial Recognition Photo Area, infrastructure for A pass kiosks on 3rd Floor, and 1st Floor relocation of security equipment • *Increase seat count to 824* • *10 facial recognition photo stations* • *8 A pass kiosks – 4 on each side – 3rd Floor, current photo area (hard wired and wireless)*
Phase 4
Wharf side Drainage, runway improvements (D only), PBB tie-downs and resurfacing of Cruise Blvd (front of terminals)
Phase 5
2 Passenger Boarding Bridges
Phase 6
Baggage Conveyor Upgrades, 1st Floor construction of shelled space, new 1st floor addition, new intermodal with canopy, and new 3rd floor PBB door • *Baggage Conveyor Upgrades (improvements to allow for: 1. Redundancy for west truck line, 2. Carousal C to be used for embarkation, and 3. Carousal C to recirculate bags for simulatnous embark/debark operation* • *Elevator and Escalator* • *Increase seat count to 1,000* • *3- 4 Additional x-ray and magnetometer stations or* • *Space for queuing before security screening and layout that will allow the use of the security scanners during debarkation (to be mutually agreed)* • *Intermodal with canopy for 3-4 buses* • *3rd Floor PBB door* • *Public Restrooms with access before and after the security screening* • *6 counters, 4 kiosks' infrastructure or 10 counters and 0 kiosks (to be mutually agreed to)*