



# Broward County

## Legislation Details (With Text)

**File #:** 22-1733 **Version:** 1

**Status:** Agenda Ready

**In control:** PORT EVERGLADES DEPARTMENT

**On agenda:** 2/7/2023 **Final action:** 2/7/2023

**Title:** MOTION TO APPROVE Lease Agreement between Broward County, as landlord, and Chiquita Fresh North America L.L.C., as tenant, for 51,868 square feet of warehouse space in Warehouse 30 and 22,933 square feet of land, both located at 3403 McIntosh Road in the Southport area at Port Everglades, for a three-year term beginning retroactively on November 1, 2021, and ending on October 31, 2024; and authorize the Mayor and Clerk to execute same.

**Sponsors:**

**Indexes:** Established Commission Goals

**Code sections:**

**Attachments:** 1. Exhibit 1 - Agreement, 2. Exhibit 2 - Map

Date	Ver.	Action By	Action	Result
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### Broward County Commission Regular Meeting

**Director's Name:** Jonathan Daniels

**Department:** Port Everglades

**Division:** Business Development

### Information

#### Requested Action

MOTION TO APPROVE Lease Agreement between Broward County, as landlord, and Chiquita Fresh North America L.L.C., as tenant, for 51,868 square feet of warehouse space in Warehouse 30 and 22,933 square feet of land, both located at 3403 McIntosh Road in the Southport area at Port Everglades, for a three-year term beginning retroactively on November 1, 2021, and ending on October 31, 2024; and authorize the Mayor and Clerk to execute same.

#### Why Action is Necessary

Multi-year lease agreements require Broward County Board of County Commissioners' approval.

#### What Action Accomplishes

Approves a new three-year Lease Agreement between Broward County, as landlord, and Chiquita Fresh North America L.L.C., as tenant, for 51,868 square feet of warehouse space in Warehouse 30 and 22,933 square feet of land in the Southport area at Port Everglades, retroactive to November 1, 2021.

#### Is this Action Goal Related

Yes

#### Previous Action Taken

None

## **Summary Explanation/Background**

THE PORT EVERGLADES DEPARTMENT RECOMMENDS APPROVAL.

This action supports the Broward County Board of County Commissioners' ("Board") Value of "Ensuring economic opportunities for Broward's diverse population and businesses" and the Goal to "Increase the economic strength and impact of revenue-generating County enterprises balancing economic, environmental, and community needs."

Chiquita Fresh North America L.L.C. ("Chiquita") has been a tenant at Port Everglades since 2004. Chiquita uses the premises to operate a ripening facility for bananas arriving in the South Florida market through Port Everglades. The most recent lease for 51,868 square feet of warehouse space in Warehouse 30 and 19,700 square feet of adjacent land, both located at 3403 McIntosh Road in the Southport area at Port Everglades, was a one-year lease approved by the Port Director effective on April 1, 2019, at Chiquita's request to allow the company time to assess its future facility needs at Port Everglades ("Prior Lease"). While the Prior Lease expired on March 31, 2020, Chiquita remained on the premises on a month-to-month tenancy with the County's consent while the parties negotiated a new lease. The longer than usual month-to-month tenancy resulted primarily from initial plans to relocate U.S. Customs and Border Protection's ("CBP") Anti-Terrorism Contraband Enforcement Team from the on-port Foreign-Trade Zone warehousing complex to Warehouse 30, as part of the Southport Turning Notch Expansion Project. An additional delay occurred due to a change in Chiquita's legal counsel.

On July 23, 2021, County staff notified Chiquita that CBP would not move into Warehouse 30. As Chiquita had previously expressed interest in leasing the entire building, totaling 81,858 square feet, Port staff offered Chiquita the entire warehouse. Chiquita intended to use the additional space to expand its ripening facility. However, Chiquita ultimately decided it was not cost-feasible to lease the entire warehouse. Hence, negotiations on the terms and conditions of the new lease shifted from the entire warehouse to the same premises as the Prior Lease. The parties agreed that this new lease would be retroactive to November 1, 2021, to cover increased rent obligations. Chiquita requested to add 3,233 square feet of land to the lease, commencing on Year 2, increasing the land lease to 22,933 square feet. The additional land was previously used by Chiquita and paid for at grid rates as provided for in the Port Everglades Tariff.

The parties agreed to the following lease rates:

- Year 1 (November 1, 2021 to October 31, 2022) Total Annual Rent: \$749,468.04
  - \$13.50 per square foot for the warehouse
  - \$2.50 per square foot for the land
- Year 2 (November 1, 2022 to October 31, 2023) Total Annual Rent: \$794,951.00
  - \$14.00 per square foot for the warehouse
  - \$3.00 per square foot for the land
- Year 3 (November 1, 2023 to October 31, 2024) Total Annual Rent: \$832,351.50
  - \$14.50 per square foot for the warehouse
  - \$3.50 per square foot for the land

The negotiated rates are below appraised values. Port staff recommends deviating from the

requirements of Section 32.6.a.1 of the Broward County Administrative Code (“Code”), which states that “Effective rental rates for land leases shall be established by an appraisal of the land or similarly situated or like land which has been conducted within the prior five years.” An independent appraiser valued the premises at \$16.00 per square foot for the warehouse and \$3.85 per square foot for the land. Applying the appraised value would result in a considerable increase from the Prior Lease, which had a rate of \$10.13 per square foot for the warehouse and \$1.62 per square foot for the land, and computes to a total annual rent of \$557,590.68 in the final lease year (before the month-to-month tenancy began). Section 32.6.a of the Code establishes that “nothing in the rental rate schedule shall preclude the Board from authorizing [Port Everglades] to pursue negotiations of rentals at either higher or lower rates under circumstances which appear to render such negotiations advisable and desirable, due to such things as location, appearance or adaptability of the property involved for the contemplated use, as well as the term of the lease and lessee capital contributions.” Port staff makes its recommendations to deviate from the appraised value based on three factors: 1) immediately increasing the rental rates to market values represents a year-over-year increase of 58% in warehouse rent and 116% in land rent, which it considers to be onerous; 2) Chiquita is a long-term Port tenant; and 3) during Fiscal Year 2022, the Port generated an additional \$493,774 of ancillary revenue from Chiquita-owned cargo moving through one of the Port’s terminals into Chiquita’s ripening facility. This represented a throughput of 20,523 20-foot equivalent units; about 1.9% of Port Everglades’ annual containerized volumes for the same period.

The Lease Agreement has been reviewed and approved as to form by the Office of the County Attorney. Of note, changes were made to the indemnification provision, requiring any attorney selected to defend the County to be approved by Lessee (whose approval shall not be unreasonably withheld).

#### **Source of Additional Information**

Jorge A. Hernández, Director, Business Development Division, Port Everglades Department, (954) 468-3501

Josh Miller, Property Manager, Business Development Division, Port Everglades Department, (954) 468-3518

### **Fiscal Impact**

#### **Fiscal Impact/Cost Summary**

The Port Everglades Department will realize \$2,376,770 in rental revenue through the term of the Lease Agreement.