

1 RESOLUTION NO.

2
3 A RESOLUTION OF THE BOARD OF COUNTY
4 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
5 GRANTING A NONEXCLUSIVE RESTRICTED FRANCHISE
6 TO YACHT STEVEDORE SOLUTIONS, LLC, FOR A
7 ONE-YEAR TERM TO PROVIDE STEVEDORE SERVICES
8 AT PORT EVERGLADES, RESTRICTED TO CARGO
9 BROKERED BY PETERS & MAY USA, INC.; PROVIDING
10 FOR FRANCHISE TERMS AND CONDITIONS; AND
11 PROVIDING FOR SEVERABILITY AND AN EFFECTIVE
12 DATE.

13 WHEREAS, the Broward County Board of County Commissioners (the "Board")
14 adopted Resolution No. 94-1302, effective November 22, 1994, creating Chapter 32 of
15 the Broward County Administrative Code ("Administrative Code"), which provides, in part,
16 for the granting of franchises to businesses to conduct operations at Port Everglades;

17 WHEREAS, Section 32.15 of the Administrative Code authorizes the Board to
18 grant an exclusive or nonexclusive franchise, and when granting a restricted franchise,
19 requires a Board determination that such a franchise, in addition to meeting the issuance
20 criteria contained in Chapter 32 of the Administrative Code, is in the best interests of the
21 operation and promotion of the port and harbor facilities within the Port Jurisdictional
22 Area;

23 WHEREAS, Section 32.16.b.10 of the Administrative Code requires an applicant
24 for a stevedore services franchise (whether a first-time applicant or an applicant seeking
renewal) to provide written evidence of its ability to promote and develop growth in the
business activities, projects, or facilities of Port Everglades through its provision of
stevedore services at Port Everglades;

1 WHEREAS, Section 32.16.b.10 of the Administrative Code further requires a first-
2 time applicant for a stevedore services franchise to demonstrate its ability to attract and
3 maintain new business so that the Board may determine whether the franchise is in the
4 best interests of the operation and promotion of the port and harbor facilities (the “New
5 Business Requirement”);

6 WHEREAS, the Board may waive the New Business Requirement pursuant to
7 Section 32.16.b.10 of the Administrative Code in instances involving cargo and/or vessels
8 that are proprietary to the applicant;

9 WHEREAS, Yacht Stevedore Solutions, LLC (“Yacht”), submitted an application
10 for a nonexclusive franchise to provide stevedore services at Port Everglades;

11 WHEREAS, Yacht is a first-time applicant as such term is defined in
12 Section 32.16.b.10 of the Administrative Code;

13 WHEREAS, the Board reviewed Yacht’s application pursuant to the requirements
14 of Chapter 32 of the Administrative Code, and is relying on the representations made by
15 Yacht in that application;

16 WHEREAS, on January 13, 2022, a public hearing was held, as required by
17 Section 32.22 of the Administrative Code, to consider Yacht’s application; and

18 WHEREAS, based on the representations of Yacht, and information presented by
19 Broward County staff and the public, as applicable, the Board determines and establishes
20 that (a) Yacht has met each of the factors set forth in Chapter 32 of the Administrative
21 Code for the granting of a nonexclusive restricted franchise to provide stevedore services
22 at Port Everglades, restricted to cargo brokered by Peters & May USA, Inc.; (b) the
23 granting of the nonexclusive restricted franchise to Yacht is in the best interests of the
24 operation and promotion of the port and harbor facilities within the Port Jurisdictional

1 Area; and (c) it is appropriate to waive the New Business Requirement in this instance,
2 NOW, THEREFORE,

3
4 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF
5 BROWARD COUNTY, FLORIDA:

6
7 Section 1. The foregoing "WHEREAS" clauses are true and correct and are
8 hereby ratified by the Board.

9 Section 2. Award of Restricted Franchise to Yacht.

10 Yacht is hereby granted a nonexclusive restricted franchise to provide stevedore
11 services at Port Everglades, restricted to cargo brokered by Peters & May USA, Inc.,
12 subject to the terms and conditions of this Resolution (the "Franchise"). The New
13 Business Requirement is waived pursuant to Section 32.16.b.10 of the Administrative
14 Code because Yacht will be providing stevedore services at Port Everglades using cargo
15 and/or vessels that are proprietary to Yacht.

16 Section 3. Term.

17 The Franchise shall be for a period of one (1) year, commencing on
18 January 13, 2022, and ending on January 12, 2023, unless sooner terminated in
19 accordance with Section 32.29 of the Administrative Code.

20 Section 4. Franchise Conditions.

21 By its execution of the franchise application, Yacht has agreed to be bound by and
22 comply with all terms and conditions set forth in Section 32.24 of the Administrative Code.

1 Section 5. Law, Jurisdiction, Venue, and Waiver of Jury Trial.

2 The Franchise shall be interpreted and construed in accordance with and governed
3 by the laws of the State of Florida. Except as provided herein, the exclusive venue for any
4 lawsuit arising from, related to, or in connection with the Franchise shall be in the state
5 courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. For matters
6 that fall within the exclusive subject matter jurisdiction of the federal courts or those to
7 which jurisdiction is confirmed by law upon the Federal Maritime Commission (“FMC”),
8 the exclusive venue for any such lawsuit shall be in the United States District Court, the
9 United States Bankruptcy Court for the Southern District of Florida, or the FMC, as
10 applicable. Yacht irrevocably subjects itself to the jurisdiction of said courts. **EACH**
11 **PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY**
12 **JURY OF ANY CIVIL LITIGATION RELATED TO THE FRANCHISE. IF A PARTY**
13 **FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING**
14 **OUT OF THE FRANCHISE AFTER WRITTEN NOTICE BY THE OTHER PARTY OF**
15 **VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY**
16 **TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS’ FEES AND**
17 **COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL,**
18 **AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING**
19 **THE MOTION.**

20 Section 6. Independent Auditor.

21 If requested by the Broward County Auditor, Yacht shall appoint, at its sole cost,
22 an independent auditor approved by the Broward County Auditor to (a) review Yacht’s
23 ongoing compliance with the terms and conditions of the Franchise; and (b) issue a
24

1 compliance report to Broward County within thirty (30) calendar days after the
2 appointment of the independent auditor.

3 Section 7. Notices.

4 In order for a notice to a party to be effective under the Franchise, notice must be
5 sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with
6 a contemporaneous copy via e-mail, to the addresses stated below and shall be effective
7 upon mailing or hand delivery (provided the contemporaneous e-mail is also sent). The
8 addresses for notice shall remain as set forth in this section unless and until changed by
9 providing notice of such change in accordance with the provisions of this section. Until
10 any change is made, notices to Yacht shall be delivered to the person identified in the
11 franchise application as having authority to bind Yacht, and notices to Broward County
12 shall be delivered to the following:

13 Broward County, Port Everglades Department
14 ATTN: Chief Executive/Port Director
15 1850 Eller Drive
Fort Lauderdale, Florida 33316
E-mail: jdaniels@broward.org

16 Section 8. Issuance of Certificate.

17 In accordance with Section 32.27 of the Administrative Code, the Port Everglades
18 Department, Business Administration Division, will issue a franchise certificate to Yacht
19 setting forth the terms and conditions of the Franchise.

20 Section 9. Severability.

21 If any portion of this Resolution is determined by any court to be invalid, the invalid
22 portion will be stricken, and such striking will not affect the validity of the remainder of this
23 Resolution. If any court determines that this Resolution, in whole or in part, cannot be
24 legally applied to any individual, group, entity, property, or circumstance, such

1 determination will not affect the applicability of this Resolution to any other individual,
2 group, entity, property, or circumstance.

3 Section 10. Effective Date.

4 This Resolution is effective upon adoption.

5

6

7 ADOPTED this _____ day of _____, 2021.

8

9

10 Approved as to form and legal sufficiency:
Andrew J. Meyers, County Attorney

11

12 By /s/ Carlos Rodriguez-Cabarrocas 11/16/2021
13 Carlos Rodriguez-Cabarrocas (date)
Sr. Assistant County Attorney

14

15

16

17

18

19

20

21

22

23 CRC:dh/cr
11/16/21

24 Yacht Stevedore-restricted-STV R02 FINAL
#21-3600