

1 RESOLUTION NO.

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3 A RESOLUTION OF THE BOARD OF COUNTY  
4 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,  
5 GRANTING A NONEXCLUSIVE RESTRICTED FRANCHISE  
6 TO SMS INTERNATIONAL SHORE OPERATIONS US, INC.,  
7 FOR A ONE-YEAR TERM TO PROVIDE STEAMSHIP  
8 AGENT SERVICES AT PORT EVERGLADES,  
9 RESTRICTED TO "NEW BUSINESS" AS DEFINED IN  
10 SECTION 32.19 OF THE BROWARD COUNTY  
11 ADMINISTRATIVE CODE; PROVIDING FOR FRANCHISE  
12 TERMS AND CONDITIONS; AND PROVIDING FOR  
13 SEVERABILITY AND AN EFFECTIVE DATE.

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

18 WHEREAS, SMS International Shore Operations US, Inc. ("SMS"), submitted an  
19 application for a nonexclusive restricted franchise to provide steamship agent services at  
20 Port Everglades;

21 WHEREAS, the Board reviewed SMS' application pursuant to the requirements of  
22 Chapter 32 of the Broward County Administrative Code, and has relied on the  
23 representations made by SMS in such application;

24 WHEREAS, on January 25, 2022, a public hearing was held, as required by  
Section 32.22 of the Broward County Administrative Code, to consider SMS' application;  
and

WHEREAS, based on the representations of SMS, and information presented by  
Broward County staff and the public, as applicable, the Board determines and establishes  
that SMS has met each of the factors set forth in Chapter 32 of the Broward County

1 Administrative Code for granting of a nonexclusive restricted franchise to SMS to provide  
2 steamship agent services at Port Everglades, restricted to “New Business” as defined in  
3 Section 32.19.b.7 of the Broward County Administrative Code, NOW, THEREFORE,  
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5 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF  
6 BROWARD COUNTY, FLORIDA:  
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8 Section 1. The foregoing “WHEREAS” clauses are true and correct and are  
9 hereby ratified by the Board.

10 Section 2. Award of Restricted Franchise to SMS.

11 SMS is hereby granted a nonexclusive restricted franchise to provide steamship  
12 agent services at Port Everglades, restricted to “New Business” as defined in  
13 Section 32.19.b.7 of the Broward County Administrative Code, subject to the terms and  
14 conditions of this Resolution (the “Franchise”).

15 Section 3. Term.

16 The Franchise shall be for a period of one (1) year, commencing on  
17 January 25, 2022, and ending on January 24, 2023, unless sooner terminated in  
18 accordance with Section 32.29 of the Broward County Administrative Code.

19 Section 4. Franchise Conditions.

20 By its execution of the franchise application, SMS agreed that it will be bound by  
21 and comply with all terms and conditions set forth in Section 32.24 of the Broward County  
22 Administrative Code.  
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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. SMS irrevocably subjects itself to the jurisdiction of said courts. **SMS AND**  
11 **BROWARD COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY**  
12 **MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THE**  
13 **FRANCHISE. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL**  
14 **IN A LAWSUIT ARISING OUT OF THE FRANCHISE AFTER WRITTEN NOTICE BY**  
15 **THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE**  
16 **REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE**  
17 **ATTORNEYS’ FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE**  
18 **REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE**  
19 **COURT IN ADJUDICATING THE MOTION.**

20 Section 6. Independent Auditor.

21 If requested by the Broward County Auditor, SMS shall appoint, at its sole cost, an  
22 independent auditor approved by the Broward County Auditor to (a) review SMS’ ongoing  
23 compliance with the terms and conditions of the Franchise; and (b) issue a compliance  
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1 report to Broward County within thirty (30) calendar days after the appointment of the  
2 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 SMS shall be delivered to the person identified in the  
11 franchise application as having authority to bind SMS, 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  
16 Fort Lauderdale, Florida 33316  
17 E-mail: jdaniels@broward.org

18 Section 8. Issuance of Certificate.

19 In accordance with Section 32.27 of the Broward County Administrative Code, the  
20 Port Everglades Department, Business Administration Division, will issue a franchise  
21 certificate to SMS setting forth the terms and conditions of the Franchise.

22 Section 9. Severability.

23 If any portion of this Resolution is determined by any court to be invalid, the invalid  
24 portion will be stricken, and such striking will not affect the validity of the remainder of this  
Resolution. If any court determines that this Resolution, in whole or in part, cannot be

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

4 Section 10. Effective Date.

5 This Resolution is effective upon adoption.

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8 ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

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13 By /s/ Carlos Rodriguez-Cabarrocas 10/25/2021  
14 Carlos Rodriguez-Cabarrocas (date)  
Sr. Assistant County Attorney

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23 CRC:dh/cr  
12/08/21  
SMS International\_restricted steamship R02 FINAL  
24 #21-3600