



# Broward County

## Legislation Text

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File #: 20-1844, Version: 1

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### **Broward County Commission Regular Meeting**

**Director's Name:** Jonathan Daniels

**Department:** Port Everglades

**Division:** Business Administration

### **Information**

#### **Requested Action**

**MOTION TO APPROVE** First Amendment to the Marine Terminal Lease and Operating Agreement between Broward County and Horizon Terminal Services LLC to provide for a revised description of the premises, extension of the lease term for an additional three years, modified rental rate, modified cargo unit rate, modified minimum annual guarantee, and consent to the sale and transfer of all Horizon Terminal Services, LLC, membership interests from Höegh Autoliners B.V. to APS East Coast, Inc.; and authorize the Mayor and Clerk to execute same.

#### **Why Action is Necessary**

Lease amendments require approval by the Broward County Board of County Commissioners.

#### **What Action Accomplishes**

Approves the First Amendment to the Marine Terminal Lease and Operating Agreement between Broward County and Horizon Terminal Services LLC.

#### **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."

On January 23, 2018 (Item No. 7), the Board approved a Marine Terminal Lease and Operating Agreement ("Marine Terminal Lease") between Broward County and Horizon Terminal Services LLC ("Horizon") for 8.67 acres of land and 27,560 square feet of warehouse space in the Midport area of Port Everglades for a five-year term commencing on January 1, 2018 (see Exhibit 3).

In November 2019, Horizon approached Port staff to request additional land to meet their expanding

business needs.

The Port Everglades Master/Vision Plan Update ("Plan"), approved by the Board on June 16, 2020 (Item No. 70), projected robust growth in new vehicle throughput. As a result, the Plan recommended that additional acreage be dedicated to the short-term storage of new import and export automobiles to support this growth over time. Since establishing operations at Port Everglades, Horizon's business activity has exceeded its original five-year throughput projections in the second year of its Marine Terminal Lease.

Representatives from Horizon, the Port Everglades Department, and the Office of the County Attorney held sunshined negotiations for the First Amendment to the Marine Terminal Lease on February 12, 2020, March 3, 2020, August 6, 2020, and September 1, 2020. The extended period for negotiations and pause between March and August resulted from uncertainty over the impact of COVID-19 on the vehicle import and export market.

The primary business terms of the First Amendment to the Marine Terminal Lease are as follows:

- The amendment is effective on January 1, 2021.
- The lease term is extended for an additional three years from its current expiration on December 31, 2022 and will continue through December 31, 2025.
- Horizon representatives and Port staff shall meet before June 30, 2025, to discuss the potential to renew the agreement for a duration and terms and conditions acceptable to both parties.
- The leasehold premises are increased from  $\pm 8.67$  acres to  $\pm 13.6$  acres of land.
- The rental rate increases from \$1.16 per square foot to \$1.20 per square foot as of January 1, 2021.
- The annual rent increases from \$469,391 to \$746,020 as of January 1, 2021 and continues to be subject to annual increases based on the greater of the CPI or 3%.
- The negotiated minimum annual guarantee ("MAG") for vehicle unit movements increases from \$234,820 to \$372,656 on January 1, 2021 and increases annually by 2.5%.
- Language providing the County the right to relocate Horizon has been deleted.

On October 9, 2020, Horizon informed Port staff of the intended sale and transfer of all its membership interests from Høegh Autoliners B.V. to APS East Coast, Inc., and requested the County's consent to the transaction. Staff's due diligence included corresponding with APS East Coast, Inc.'s representatives and reviewing the Membership Interest Purchase Agreement, dated October 2, 2020, by and among APS East Coast, Inc., AMPORTS, Inc., and Høegh Autoliners B.V.; APS East Coast, Inc.'s corporate status; resumes of executive staff and list of managerial personnel; business history/experience; financial documents and credit worthiness; and the ability to promote and develop growth in the business activities, projects, or facilities of Port Everglades.

Based on the review of information provided, staff has determined that, under the new ownership, Horizon will continue to meet the standards of creditworthiness, will have the ability to perform the obligations under the Marine Terminal Lease, and that the Demised Premises will be used in

connection with the maritime industry for the purposes described in the Marine Terminal Lease.

The Amendment has been reviewed and approved as to form by the Office of the County Attorney.

**Source of Additional Information**

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

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

**Fiscal Impact**

**Fiscal Impact/Cost Summary**

As a result of the First Amendment, the County will receive additional guaranteed revenue of \$4,491,453 during the extended term of the Marine Terminal Lease. Additional revenue will be generated for each year Horizon exceeds its Minimum Annual Guarantee projections.