

PROPOSED

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, CONSENTING TO THE ASSIGNMENT OF A NONEXCLUSIVE, UNRESTRICTED VESSEL OILY WASTE REMOVAL SERVICES FRANCHISE FROM RAIDER ENVIRONMENTAL SERVICES OF FLORIDA, INC., TO HERITAGE-CRYSTAL CLEAN, LLC, TO PROVIDE VESSEL OILY WASTE REMOVAL SERVICES AT PORT EVERGLADES FOR THE REMAINDER OF THE CURRENT FIVE-YEAR FRANCHISE TERM; PROVIDING FOR FRANCHISE TERMS AND CONDITIONS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Chapter 32, Part II, of the Broward County Administrative Code (“Administrative Code”) provides for the granting of franchises to businesses to conduct operations at Port Everglades;

WHEREAS, on September 21, 2021, by Resolution No. 2021-461, the Broward County Board of County Commissioners (the “Board”) renewed the nonexclusive, unrestricted vessel oily waste removal services franchise granted to Raider Environmental Services of Florida, Inc. (“Raider”), with such renewal having a five-year term commencing on October 27, 2021, and ending on October 26, 2026 (“Franchise”);

WHEREAS, Raider recently submitted a request to assign its Franchise to Heritage-Crystal Clean, LLC (“Heritage”), and the Port Everglades Department has received a franchise application from Heritage for a nonexclusive, unrestricted franchise to provide vessel oily waste removal services at Port Everglades;

WHEREAS, the Board reviewed Raider's assignment request and Heritage's franchise application pursuant to the requirements of Chapter 32 of the Administrative Code, and is relying on the representations made by Raider and Heritage;

WHEREAS, on April 16, 2024, a public hearing was held, as required by Section 32.22 of the Administrative Code, to consider the request to assign the Franchise from Raider to Heritage; and

WHEREAS, based on the representations of Raider and Heritage, and information presented by Broward County staff and the public, as applicable, the Board does hereby find, determine, and declare the proposed assignment of the Franchise to be in the public interest, NOW, THEREFORE,

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

Section 1. The foregoing recitals are true and correct and are hereby ratified by the Board.

Section 2. Assignment of Franchise.

The Board hereby consents to the assignment of the Franchise to provide vessel oily waste removal services at Port Everglades from Raider to Heritage, subject to the terms and conditions of this Resolution.

Section 3. Assigned Franchise Term.

The assigned Franchise shall be for the remainder of the original five (5) year term, ending on October 26, 2026, unless sooner terminated in accordance with Section 32.29 of the Administrative Code.

Section 4. Franchise Conditions.

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

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

The Franchise shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Except as provided herein, the exclusive venue for any lawsuit arising from, related to, or in connection with the Franchise shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. For matters that fall within the exclusive subject matter jurisdiction of the federal courts or those to which jurisdiction is confirmed by law upon the Federal Maritime Commission ("FMC"), the exclusive venue for any such lawsuit shall be in the United States District Court, the United States Bankruptcy Court for the Southern District of Florida, or the FMC, as applicable. Heritage irrevocably subjects itself to the jurisdiction of said courts. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THE FRANCHISE.**

Section 6. Independent Auditor.

If requested by the Broward County Auditor, Heritage shall appoint, at its sole cost, an independent auditor approved by the Broward County Auditor to (a) review Heritage's ongoing compliance with the terms and conditions of the Franchise; and (b) issue a compliance report to Broward County within thirty (30) calendar days after the appointment of the independent auditor.

Section 7. Notices.

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

Broward County, Port Everglades Department

ATTN: Chief Executive/Port Director

1850 Eller Drive

Fort Lauderdale, Florida 33316

E-mail: gwiltshire@broward.org

Section 8. Issuance of Certificate.

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

Section 9. Severability.

If any portion of this Resolution is determined by any court to be invalid, the invalid 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

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

Section 10. Effective Date.

This Resolution is effective upon adoption.

ADOPTED this day of , 2024. **PROPOSED**

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

By: /s/ Carlos Rodriguez-Cabarrocas 02/21/2024
Carlos Rodriguez-Cabarrocas (date)
Senior Assistant County Attorney