

RESOLUTION NO. 2018-

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, GRANTING A NONEXCLUSIVE FRANCHISE TO TETHYS SUPPLY AND MARKETING, LLC, FOR A ONE-YEAR TERM TO PROVIDE VESSEL BUNKERING SERVICES AT PORT EVERGLADES; PROVIDING FOR FRANCHISE TERMS AND CONDITIONS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

WHEREAS, Tethys Supply and Marketing, LLC, has submitted an application for a nonexclusive franchise to provide vessel bunkering services at Port Everglades; and

WHEREAS, the Board has reviewed the application in light of the requirements of Chapter 32 of the Broward County Administrative Code and has relied on the representations of Tethys Supply and Marketing, LLC, contained in the application; and

WHEREAS, a public hearing was held on June 5, 2018, as required under Section 32.22 of the Broward County Administrative Code; and

WHEREAS, based on the representations of Tethys Supply and Marketing, LLC, and information presented by Broward County staff and the public, the Board does hereby

1 find, determine, and declare the granting of a nonexclusive franchise to Tethys Supply
2 and Marketing, LLC, for vessel bunkering services to be in the best interests of
3 Broward County, 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 of County Commissioners.

10 Section 2. AWARD OF FRANCHISE TO TETHYS SUPPLY AND
11 MARKETING, LLC.

12 Tethys Supply and Marketing, LLC, ("Franchisee") is hereby granted a
13 nonexclusive franchise to provide vessel bunkering services at Port Everglades (the
14 "Franchise"), subject to the terms and conditions of Sections 3 through 8 of this
15 Resolution.

16 Section 3. TERM.

17 The Franchise shall be for a period of one (1) year, from June 5, 2018, through
18 June 4, 2019, unless sooner terminated in accordance with Section 32.29 of the Broward
19 County Administrative Code.

20 Section 4. FRANCHISE CONDITIONS.

21 By its execution of the franchise application, Franchisee has agreed that it will be
22 bound by and comply with all franchise conditions set forth in Section 32.24 of the
23 Broward County 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. The exclusive venue for any lawsuit arising from,
4 related to, or in connection with the Franchise shall be in the state court of the
5 Seventeenth Judicial Circuit in and for Broward County, Florida. Franchisee irrevocably
6 subjects itself to the jurisdiction of said Court. This provision shall not apply to matters
7 that fall within the exclusive subject matter jurisdiction of the federal courts or those to
8 which jurisdiction is confirmed by law upon the Federal Maritime Commission (FMC). In
9 the latter case, either Broward County or Franchisee may choose to bring any such matter
10 before the FMC. If any claim arising from, related to, or in connection with the Franchise
11 must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the
12 United States District Court or United States Bankruptcy Court for the Southern District
13 of Florida. **FRANCHISEE AND BROWARD COUNTY EXPRESSLY WAIVE ANY**
14 **RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL**
15 **LITIGATION RELATED TO THE FRANCHISE.**

16 Section 6. INDEPENDENT AUDITOR.

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

22 Section 7. NOTICES.

23 Any notices required under the Franchise or by law shall be given in writing and
24 shall be sent by registered or certified mail by depositing the same in the United States

1 Mail, postage prepaid, or by hand delivery, or by overnight courier. Any notice given by
2 United States Mail shall be deemed effective and served three (3) business days after the
3 date of the mailing. Any notice given by hand delivery or overnight courier shall be
4 deemed to have been given upon receipt. Broward County or Franchisee may, by giving
5 written notice to the other, change the address to which its notices are to be received.
6 Until any change is made, notices to Franchisee shall be delivered to the person identified
7 in the franchise application as having authority to bind the Franchisee. Until any such
8 change is made, notices to Broward County shall be delivered as follows:

9 Broward County, Port Everglades Department
10 ATTN: Chief Executive/Port Director
11 1850 Eller Drive
12 Fort Lauderdale, Florida 33316

13 Section 8. ISSUANCE OF CERTIFICATE.

14 In accordance with Section 32.27 of the Broward County Administrative Code, the
15 Port Everglades Department Business Administration Division will issue a franchise
16 certificate to Franchisee setting forth the terms and conditions of the Franchise.

17 Section 9. SEVERABILITY.

18 If any portion of this Resolution is determined by any Court to be invalid, the invalid
19 portion shall be stricken, and such striking shall not affect the validity of the remainder of
20 this Resolution. If any Court determines that this Resolution, or any portion hereof, cannot
21 be legally applied to any individual(s), group(s), entity(ies), property(ies), or
22 circumstance(s), such determination shall not affect the applicability hereof to any other
23 individual, group, entity, property, or circumstance.
24

Section 10. EFFECTIVE DATE.

This Resolution shall become effective upon adoption.

ADOPTED this _____ day of _____, 2018.

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

By /s/ Al A DiCalvo 05/08/18
Al A DiCalvo (date)
Assistant County Attorney

By /s/ Russell J. Morrison 05/08/18
Russell J. Morrison (date)
Sr. Assistant County Attorney

AAD:cr
05/08/18
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