

1 RESOLUTION NO. 2019-

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3 A RESOLUTION OF THE BOARD OF COUNTY
4 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
5 GRANTING RENEWAL OF A NONEXCLUSIVE FRANCHISE
6 TO CONTINENTAL FLORIDA MATERIALS INC. FOR AN
7 INITIAL SIX-MONTH TERM TO PROVIDE CARGO
8 HANDLER SERVICES AT PORT EVERGLADES, WITH AN
9 OPTIONAL SIX-MONTH EXTENSION THAT MAY BE
10 EXERCISED BY THE PORT DIRECTOR; PROVIDING FOR
11 FRANCHISE TERMS AND CONDITIONS; AND PROVIDING
12 FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

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19 WHEREAS, Continental Florida Materials Inc. has submitted an application for
20 renewal of a nonexclusive franchise to provide cargo handler services at Port Everglades;

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22 WHEREAS, the Board has reviewed the application in light of the requirements of
23 Chapter 32 of the Broward County Administrative Code and has relied on the
24 representations of Continental Florida Materials Inc. contained in the application;

WHEREAS, a public hearing was held on May 7, 2019, as required under
Section 32.22 of the Broward County Administrative Code; and

1 WHEREAS, based on the representations of Continental Florida Materials Inc. and
2 information presented by Broward County staff and the public, the Board does hereby
3 determine and establish that Continental Florida Materials Inc. has met each of the factors
4 set forth in Section 32.17.b of the Broward County Administrative Code, and declares that
5 the best interests of Broward County dictate renewal of a nonexclusive franchise to
6 Continental Florida Materials Inc. for cargo handler services, NOW, THEREFORE,

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

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11 Section 1. The foregoing "WHEREAS" clauses are true and correct and are
12 hereby ratified by the Board of County Commissioners.

13 Section 2. Renewal of Franchise to Continental Florida Materials Inc.

14 Continental Florida Materials Inc. ("Franchisee") is hereby granted renewal of a
15 nonexclusive franchise to provide cargo handler services at Port Everglades (the
16 "Franchise"), subject to the terms and conditions of Sections 3 through 8 of this
17 Resolution.

18 Section 3. Term.

19 The Franchise shall be for a period of six (6) months, from May 21, 2019, through
20 November 20, 2019, unless sooner terminated in accordance with Section 32.29 of the
21 Broward County Administrative Code. This Franchise may be extended for an additional
22 six (6) month period at the option of Broward County's Port Director or his/her designee
23 ("Port Director"). If Port Director elects to extend the term for an additional six (6) months,
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1 Port Director shall provide Franchisee with forty-five (45) calendar days written notice
2 prior to the expiration of the initial six (6) month term.

3 Section 4. Franchise Conditions.

4 By its execution of the franchise renewal application, Franchisee has agreed that
5 it will be bound by and comply with all franchise conditions set forth in Section 32.24 of
6 the Broward County Administrative Code.

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

8 The Franchise shall be interpreted and construed in accordance with and governed
9 by the laws of the state of Florida. The exclusive venue for any lawsuit arising from,
10 related to, or in connection with the Franchise shall be in the state court of the
11 Seventeenth Judicial Circuit in and for Broward County, Florida. Franchisee irrevocably
12 subjects itself to the jurisdiction of said Court. This provision shall not apply to matters
13 that fall within the exclusive subject matter jurisdiction of the federal courts or those to
14 which jurisdiction is confirmed by law upon the Federal Maritime Commission (FMC). In
15 the latter case, either Broward County or Franchisee may choose to bring any such matter
16 before the FMC. If any claim arising from, related to, or in connection with the Franchise
17 must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the
18 United States District Court or United States Bankruptcy Court for the Southern District
19 of Florida. **FRANCHISEE AND BROWARD COUNTY EXPRESSLY WAIVE ANY**
20 **RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL**
21 **LITIGATION RELATED TO THE FRANCHISE.**

22 Section 6. Independent Auditor.

23 If requested by the Broward County Auditor, Franchisee shall appoint at its sole
24 cost an independent auditor approved by the Broward County Auditor to review

1 Franchisee's ongoing compliance with the terms and conditions of the Franchise and
2 issue a compliance report to Broward County within thirty (30) calendar days after the
3 appointment of the independent auditor.

4 Section 7. Notices.

5 Any notices required under the Franchise or by law must be given in writing and
6 must be sent by registered or certified mail by depositing the same in the United States
7 Mail, postage prepaid, or by hand delivery, or by overnight courier. Any notice given by
8 United States Mail shall be deemed effective and served three (3) business days after the
9 date of the mailing. Any notice given by hand delivery or overnight courier shall be
10 deemed to have been given upon receipt. Broward County or Franchisee may, by giving
11 written notice to the other, change the address to which its notices are to be received.
12 Until any change is made, notices to Franchisee shall be delivered to the person identified
13 in the franchise renewal application as having authority to bind the Franchisee. Until any
14 such change is made, notices to Broward County shall be delivered to the following:

15 Broward County, Port Everglades Department
16 ATTN: Chief Executive/Port Director
17 1850 Eller Drive
Fort Lauderdale, Florida 33316

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 Franchisee 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

1 Resolution. If any court determines that this Resolution, in whole or in part, cannot be
2 legally applied to any individual, group, entity, property, or circumstance, such
3 determination will not affect the applicability of this Resolution to any other individual,
4 group, entity, property, or circumstance.

5 Section 10. Effective Date.

6 This Resolution is effective upon adoption.

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9 ADOPTED this _____ day of _____, 2019.

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

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14 By /s/ Al A DiCalvo 04/01/19
15 Al A DiCalvo (date)
Assistant County Attorney

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17 By /s/ Russell J. Morrison 04/01/19
18 Russell J. Morrison (date)
Sr. Assistant County Attorney

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AAD:cr
04/01/19

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