

PORT EVERGLADES TARIFF NO. 12

Item No. 405–Indemnification of Broward County.

Issue No. 1

Effective Date: October 1, 2006

All tenants and Port users of the facilities or property of Broward County's Port Everglades Department agree, by their use thereof, to protect, indemnify, keep and hold harmless, Broward County, its employees, officers, directors or agents from and against any and all losses, liabilities, costs, claims, charges, demands, expenses, including, but not limited to, reasonable attorneys' fees, penalties and damages imposed for the violation of any law of the United States of America, the State of Florida, or the ordinances or resolutions of local jurisdictions governing the operations of Port Everglades to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the tenant or Port user. Further, tenants and Port users shall protect, indemnify and hold harmless Broward County, its employees, officers, directors or agents from any and all losses, liabilities, costs, claims, charges, demands, expenses, penalties and damages including, but not limited to, reasonable attorneys' fees to the extent caused by negligence, recklessness or intentionally wrongful conduct of the tenant or Port user. The provisions of this indemnity shall apply equally as well to all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (reasonable attorneys' fees), imposed upon or incurred by Broward County by reason of the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) 42 U.S.C.A. 9601 et seq. and Superfund Amendments and Reauthorization Act of 1986 (SARA). Except as specifically provided herein, this Tariff provision does not require that a tenant or Port user defend, indemnify and hold harmless Broward County, its employees, officers, directors or agents from any losses, liabilities, costs, claims, charges, demands, expenses including, but not limited to, attorneys' fees, penalties, damages, actions or proceedings. In the event that any action or proceeding is brought against Broward County by reason of any such claim or demand, tenant or Port user shall, upon written notice from Broward County, resist and defend such action or proceeding by counsel satisfactory to Broward County.