PROPOSED

RESOLUTION NO.

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, GRANTING RENEWAL OF A NONEXCLUSIVE, UNRESTRICTED PORT EVERGLADES CARGO HANDLER SERVICES FRANCHISE TO SUN TERMINALS, INC., FOR A NEW TEN-YEAR 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") sets forth criteria for the granting of franchises to businesses to conduct certain operations at Port Everglades, including, but not limited to, cargo handler services;

WHEREAS, Section 32.15 of the Administrative Code authorizes Broward County (the "County") to grant different types of franchises: exclusive or nonexclusive; and restricted or unrestricted;

WHEREAS, Section 32.22 of the Administrative Code provides that franchises shall be granted by the Broward County Board of County Commissioners (the "Board") by Resolution after public hearing;

WHEREAS, on May 12, 2015, by Resolution No. 2015-253, the Board granted Sun Terminals, Inc. ("Sun Terminals") a nonexclusive Port Everglades cargo handler services franchise, with a ten-year term commencing on June 2, 2015, and ending on June 1, 2025 ("Prior Franchise");

WHEREAS, Sun Terminals recently submitted an application for renewal of the Prior Franchise so that it may continue providing cargo handler services at Port Everglades;

WHEREAS, the Board reviewed Sun Terminals' application pursuant to the requirements of Chapter 32 of the Administrative Code, and is relying on the representations made by Sun Terminals in that application;

WHEREAS, on May 20, 2025, a public hearing was held to consider Sun Terminals' application; and

WHEREAS, based on the representations of Sun Terminals, and information presented by Broward County staff and the public, as applicable, the Board does hereby determine and establish that Sun Terminals has met each of the factors set forth in applicable provisions of Chapter 32 of the Administrative Code for the granting of a renewal of Sun Terminals' Prior Franchise so that it may continue providing cargo handler services at Port Everglades, 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. Renewal of Prior Franchise to Franchisee.

Sun Terminals is hereby granted renewal of its Prior Franchise so that it may continue to provide cargo handler services at Port Everglades (the "Franchise"), subject to the terms and conditions of this Resolution.

Section 3. Term.

The Franchise shall be for a period of ten (10) years, commencing June 2, 2025, and ending June 1, 2035, 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, Sun Terminals 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. Sun Terminals 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, Sun Terminals shall appoint, at its sole cost, an independent auditor approved by the Broward County Auditor to (a) review

Sun Terminals' 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. Audit Rights and Retention of Records.

County shall have the right to audit the books, records, and accounts of Sun Terminals and all subcontractors that are related to this Franchise. Sun Terminals and all subcontractors shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to this Franchise and performance under this Franchise. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Sun Terminals and all subcontractors shall make same available in written form at no cost to County. Sun Terminals shall provide County with reasonable access to Sun Terminals' facilities, and County shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Franchise.

Sun Terminals and all subcontractors shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to this Franchise for at least three (3) years after expiration or termination of this Franchise or until resolution of any audit findings, whichever is longer. This section shall survive any dispute or litigation between County and Sun Terminals, and Sun Terminals expressly acknowledges and agrees to be bound by this article throughout the course of any dispute or litigation with County. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County).

Sun Terminals hereby grants County the right to conduct such audit or review at Sun Terminals' place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice. Sun Terminals shall make all such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by County.

If an audit or inspection in accordance with this section reveals underpayments to County of any nature by Sun Terminals in excess of five percent (5%) of the applicable contract billings reviewed by County, in addition to making adjustments for the underpayments, Sun Terminals shall pay the reasonable cost of County's audit. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of County's findings to Sun Terminals.

Sun Terminals shall ensure that the requirements of this section are included in all agreements with all subcontractors.

Section 8. 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 Sun Terminals shall be delivered to the person identified in the franchise application as having authority to bind Sun Terminals, 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: jmmorris@broward.org

Section 9. 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 Sun Terminals setting forth the terms and conditions of the Franchise.

Section 10. 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 11. Effective Date.

This Resolution is effective upon adoption.

ADOPTED this day of , 2025. **PROPOSED**

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

By: */s/ Carlos Rodriguez-Cabarrocas* 03/27/2025
Carlos Rodriguez-Cabarrocas (date)
Senior Assistant County Attorney

CRC/cr
Sun Terminals CH_R02
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