

1 RESOLUTION NO. 2021-

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3 A RESOLUTION OF THE BOARD OF COUNTY
4 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
5 CONSENTING TO THE ASSIGNMENT OF A
6 NONEXCLUSIVE VESSEL BUNKERING SERVICE
7 FRANCHISE FROM TETHYS SUPPLY AND MARKETING,
8 LLC, TO PROTEUS SUPPLY AND TRADING, LLC, TO
9 PROVIDE VESSEL BUNKERING SERVICE AT PORT
10 EVERGLADES; PROVIDING FOR FRANCHISE TERMS
11 AND CONDITIONS; AND PROVIDING FOR SEVERABILITY
12 AND AN EFFECTIVE DATE.

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

17 WHEREAS, on May 21, 2019, by Resolution No. 2019-282, the Board renewed
18 the nonexclusive vessel bunkering service franchise ("Franchise") granted to Tethys
19 Supply and Marketing, LLC ("Tethys"), with such renewal having a term of June 5, 2019,
20 through June 4, 2024;

21 WHEREAS, Tethys submitted a request to assign its Franchise to Proteus Supply
22 and Trading, LLC ("Proteus"), and Proteus submitted a franchise application;

23 WHEREAS, the Board reviewed Tethys' assignment request and Proteus's
24 franchise application pursuant to the requirements of Chapter 32 of the Broward County
Administrative Code, and has relied on the representations made by Tethys and Proteus
in such submittals;

1 WHEREAS, a public hearing was held on April 20, 2021, as required by
2 Section 32.22 of the Broward County Administrative Code, to consider the request to
3 assign the Franchise from Tethys to Proteus; and

4 WHEREAS, based on the representations of Tethys and Proteus, and information
5 presented by Broward County staff and the public, the Board does hereby find, determine,
6 and declare the assignment of the Franchise to be in the public interest, NOW,
7 THEREFORE,

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

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12 Section 1. The foregoing "WHEREAS" clauses are true and correct and are
13 hereby ratified by the Board.

14 Section 2. Assignment of Franchise from Tethys to Proteus.

15 The Board hereby consents to the assignment of the Franchise from Tethys to
16 Proteus, subject to the requirements of this Resolution.

17 Section 3. Assigned Franchise Term.

18 The Franchise shall be for a term commencing on April 20, 2021, and ending
19 June 4, 2024, unless sooner terminated in accordance with Section 32.29 of the Broward
20 County Administrative Code.

21 Section 4. Franchise Conditions.

22 By its execution of the franchise application, Proteus agreed that it will be bound
23 by and comply with all terms and conditions set forth in Section 32.24 of the Broward
24 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. Except as provided herein, the exclusive venue for
4 any lawsuit arising from, related to, or in connection with the Franchise shall be in the
5 state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. For
6 matters that fall within the exclusive subject matter jurisdiction of the federal courts or
7 those to which jurisdiction is confirmed by law upon the Federal Maritime Commission
8 ("FMC"), the exclusive venue for any such lawsuit shall be in the United States District
9 Court, the United States Bankruptcy Court for the Southern District of Florida, or the FMC,
10 as applicable. Proteus irrevocably subjects itself to the jurisdiction of said courts.

11 **PROTEUS AND BROWARD COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS**
12 **EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION**
13 **RELATED TO THE FRANCHISE. IF A PARTY FAILS TO WITHDRAW A REQUEST**
14 **FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THE FRANCHISE AFTER**
15 **WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE**
16 **PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE**
17 **REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN**
18 **CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE**
19 **AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

20 Section 6. Independent Auditor.

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

3 Section 7. Notices.

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

13 Broward County, Port Everglades Department
14 ATTN: Chief Executive/Port Director
15 1850 Eller Drive
Fort Lauderdale, Florida 33316
E-mail: jdaniels@broward.org

16 Section 8. Issuance of Certificate.

17 In accordance with Section 32.27 of the Broward County Administrative Code, the
18 Port Everglades Department, Business Administration Division, will issue a franchise
19 certificate to Proteus, setting forth the terms and conditions of the Franchise.

20 Section 9. Severability.

21 If any portion of this Resolution is determined by any court to be invalid, the invalid
22 portion will be stricken, and such striking will not affect the validity of the remainder of this
23 Resolution. If any court determines that this Resolution, in whole or in part, cannot be
24 legally applied to any individual, group, entity, property, or circumstance, such

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

3 Section 10. Effective Date.

4 This Resolution is effective upon adoption.

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6 ADOPTED this _____ day of _____, 2021.

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

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11 By /s/ Carlos Rodriguez-Cabarrocas 03/19/2021
Carlos Rodriguez-Cabarrocas (date)
Assistant County Attorney

12
13 By /s/ Russell J. Morrison 03/19/2021
Russell J. Morrison (date)
Senior Assistant County Attorney

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22 RJM:dh/cr
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