

1 RESOLUTION NO. 2021-

2  
3 A RESOLUTION OF THE BOARD OF COUNTY  
4 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,  
5 GRANTING RENEWAL OF A NONEXCLUSIVE FRANCHISE  
6 TO SUN TERMINALS, INC., FOR A FIVE-YEAR TERM TO  
7 PROVIDE STEAMSHIP AGENT SERVICES AT PORT  
8 EVERGLADES; PROVIDING FOR FRANCHISE TERMS  
9 AND CONDITIONS; AND PROVIDING FOR SEVERABILITY  
10 AND AN EFFECTIVE DATE.

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

15 WHEREAS, on April 26, 2016, by Resolution No. 2016-244, the Board granted  
16 Sun Terminals, Inc. ("Sun Terminals"), a renewal of a nonexclusive franchise to provide  
17 steamship agent services at Port Everglades, with a five-year term commencing on  
18 June 3, 2016, and ending on June 2, 2021;

19 WHEREAS, Sun Terminals recently submitted an application for an additional  
20 renewal of a nonexclusive franchise so that it may continue providing steamship agent  
21 services at Port Everglades;

22 WHEREAS, the Board reviewed Sun Terminals' application pursuant to the  
23 requirements of Chapter 32 of the Broward County Administrative Code, and has relied  
24 on the representations made by Sun Terminals in such application;

WHEREAS, on May 18, 2021, a public hearing was held, as required by  
Section 32.22 of the Broward County Administrative Code, to consider Sun Terminals'  
application; and

1 WHEREAS, based on the representations of Sun Terminals, and information  
2 presented by Broward County staff and the public, as applicable, the Board determines  
3 and establishes that Sun Terminals has met each of the factors set forth in  
4 Section 32.19.d of the Broward County Administrative Code, and declares that the best  
5 interests of Broward County dictate renewal of Sun Terminals' nonexclusive franchise to  
6 provide steamship agent services at Port Everglades, NOW, THEREFORE,

7  
8 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF  
9 BROWARD COUNTY, FLORIDA:

10  
11 Section 1. The foregoing "WHEREAS" clauses are true and correct and are  
12 hereby ratified by the Board.

13 Section 2. Renewal of Franchise to Sun Terminals

14 Sun Terminals is hereby granted renewal of a nonexclusive franchise to provide  
15 steamship agent services at Port Everglades (the "Franchise"), subject to the terms and  
16 conditions of this Resolution.

17 Section 3. Term.

18 The Franchise shall be for a period of five (5) years, commencing June 3, 2021,  
19 and ending June 2, 2026, unless sooner terminated in accordance with Section 32.29 of  
20 the Broward County Administrative Code.

1 Section 4. Franchise Conditions.

2 By its execution of the franchise renewal application, Sun Terminals agreed that it  
3 will be bound by and comply with all terms and conditions set forth in Section 32.24 of the  
4 Broward County Administrative Code.

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

6 The Franchise shall be interpreted and construed in accordance with and governed  
7 by the laws of the State of Florida. Except as provided herein, the exclusive venue for any  
8 lawsuit arising from, related to, or in connection with the Franchise shall be in the state  
9 courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. For matters  
10 that fall within the exclusive subject matter jurisdiction of the federal courts or those to  
11 which jurisdiction is confirmed by law upon the Federal Maritime Commission ("FMC"),  
12 the exclusive venue for any such lawsuit shall be in the United States District Court, the  
13 United States Bankruptcy Court for the Southern District of Florida, or the FMC, as  
14 applicable. Sun Terminals irrevocably subjects itself to the jurisdiction of said courts. **SUN**  
15 **TERMINALS AND BROWARD COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS**  
16 **EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION**  
17 **RELATED TO THE FRANCHISE. IF A PARTY FAILS TO WITHDRAW A REQUEST**  
18 **FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THE FRANCHISE AFTER**  
19 **WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE**  
20 **PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE**  
21 **REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN**  
22 **CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE**  
23 **AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

24

1           Section 6.    Independent Auditor.

2           If requested by the Broward County Auditor, Sun Terminals shall appoint, at its  
3 sole cost, an independent auditor approved by the Broward County Auditor to (a) review  
4 Sun Terminals' ongoing compliance with the terms and conditions of the Franchise; and  
5 (b) issue a compliance report to Broward County within thirty (30) calendar days after the  
6 appointment of the independent auditor.

7           Section 7.    Notices.

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

17                   Broward County, Port Everglades Department  
18                   ATTN: Chief Executive/Port Director  
19                   1850 Eller Drive  
20                   Fort Lauderdale, Florida 33316  
21                   E-mail: jdaniels@broward.org

22           Section 8.    Issuance of Certificate.

23           In accordance with Section 32.27 of the Broward County Administrative Code, the  
24 Port Everglades Department, Business Administration Division, will issue a franchise  
certificate to Sun Terminals setting forth the terms and conditions of the Franchise.

1 Section 9. Severability.

2 If any portion of this Resolution is determined by any court to be invalid, the invalid  
3 portion will be stricken, and such striking will not affect the validity of the remainder of this  
4 Resolution. If any court determines that this Resolution, in whole or in part, cannot be  
5 legally applied to any individual, group, entity, property, or circumstance, such  
6 determination will not affect the applicability of this Resolution to any other individual,  
7 group, entity, property, or circumstance.

8 Section 10. Effective Date.

9 This Resolution is effective upon adoption.

10  
11  
12 ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

13  
14  
15 Approved as to form and legal sufficiency:  
Andrew J. Meyers, County Attorney

16  
17 By /s/ Carlos Rodriguez-Cabarrocas 03/24/2021  
Carlos Rodriguez-Cabarrocas (date)  
Assistant County Attorney

18  
19 By /s/ Russell J. Morrison 03/24/2021  
Russell J. Morrison (date)  
Senior Assistant County Attorney

20  
21  
22  
23 CRC:dh  
03/24/21  
24 Sun Terminals\_steamship\_R02\_Final2021-324  
#21-3600