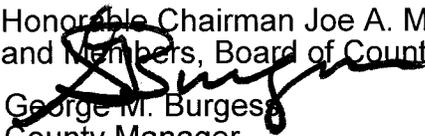


Date: September 8, 2005

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: 
George M. Burgess
County Manager

Subject: Award Recommendation, Latin American Enterprises, Inc.
ITB No. MDAD-02-05

Agenda Item No. 8(A)(1)(E)

RECOMMENDATION

It is recommended that the Board of County Commissioner (Board) uphold the Hearing Examiner's recommendation and approve the award of the Prepaid Phone Card Vending Machines contract at Miami International Airport to Latin American Enterprises, Inc., the highest bidder under ITB No. MDAD-02-05. It is further recommended that the Board authorizes the execution of the attached Agreement, allowing me to exercise any and all renewal and cancellation provisions therein.

It is also recommended that the Board waive the requirements of Resolution No. R-377-04 pertaining to the effective date of an agreement.

BACKGROUND

The Aviation Department (Department) originally advertised an Invitation to Bid (ITB) for Prepaid Phone Card Vending Machines (ITB No. MDAD00003) on June 6, 2002. Following a lengthy bid protest process, the Board on December 14, 2004 rejected all bids and directed the Department to reissue an ITB (No. MDAD-02-05) to obtain these vending services.

To address the concerns raised by the Board at the time of rejection of all bids, I presented to the Board a memo dated December 16, 2004 outlining the revisions to be made in the concession agreement and the proposed expedited schedule for award (copy attached). Pursuant to my instructions, the ITB and concession agreement were revised as follows:

<u>Issue</u>	<u>Agreement Provision</u>
Enhancing Payment Protection	<ul style="list-style-type: none">➤ 100% Performance Bond for duration of contract. PLUS➤ Security Deposit in an amount equal to three months of the Minimal Annual Guarantee (MAG). ➤ If payment, which is due on the first of the month, has not been received by the 10th of that month, interest will start accruing at the contractually stipulated amount. The Miami-Dade Aviation Department (MDAD) will access the Security Deposit for the amount due. MDAD will then forward a default letter advising the Concessionaire that it has 20 days to replenish the Security Deposit, which if not paid will cause MDAD to initiate termination proceedings. ➤ If the Concessionaire is late with payments to the County more than two times within a twelve (12) month period, any subsequent late payment will constitute a cause for default.
Creating paper trail, electronic monitoring, enhancing audit ability of machine receipts	<ul style="list-style-type: none">➤ Machines must have paper trail and must create electronic tamperproof results of all revenues. ➤ Contractor provided [a certification from the manufacturer] that machine revenue calculating mechanism is tamperproof. ➤ Contract states that collections of money from machines can only be done at prearranged schedule and County can oversee.
Setting Criteria for payment history and delinquencies as part of the determination of whether bidder is responsible	<ul style="list-style-type: none">➤ Ordinance 99-162 (Contractor in arrears in its obligations) was reviewed and Contractor was found not in arrears. ➤ Responsibility and Responsiveness review done and contractor was found to be both responsible and responsive.

<u>Issue</u>	<u>Agreement Provision</u>
Enhancing Customer Service	<ul style="list-style-type: none">➤ Concessionaire must place information concerning domestic rates/minutes on machines.➤ International rates/minutes for 20 of most dialed Countries must be listed on machines.➤ Toll free number to get rates that are not stated on machine.➤ A list of all rates and minutes forwarded to MDAD - which County can post on our Airport Web.➤ Concessionaire must have a "live" customer service operation responding to other requests the Customer may have.➤ Responses to a Customer question must be addressed within five minutes.➤ These performance standards are tied to liquidated damages.
Enhancing Control of operations, such as inventory and location of machines	<ul style="list-style-type: none">➤ Contract states machines must have County decals.➤ Machines cannot be opened/replaced without request to County.➤ Machines cannot be moved without written request and approval by County.➤ Any evidence of tampering may lead to termination of the Agreement.➤ Only a certified company technician may have access to the accounting system and must notify the Department before servicing or repairing any part of the Machine that produces access to the accounting system.

<u>Issue</u>	<u>Agreement Provision</u>
Evaluating the level of percentage rents and minimum guarantee that can be supported under this concession given current environment	<ul style="list-style-type: none">➤ The MAG for year 1 was set at \$262,500 (below originally requested \$600,000). All three bidders submitted MAGs in excess of that minimum amount by at least \$100,000. The highest bid was \$501,000.➤ MAG for years 2 and 3 were set at 0.

The Department advertised the revised Invitation for Bid (ITB) for Prepaid Phone Card Vending machines on March 8, 2005. Three (3) bidders responded to the County's public advertisement: Travelex Currency Services, Inc., Communitel/WTN Joint Venture, and Latin American Enterprises, Inc. All three (3) bidders were found responsive by the County Attorney's Office, responsible by the Department, and in compliance with the DBE goal and financial requirements. The prices for the three (3) bidders were opened and read aloud at a publicly advertised meeting on April 21, 2005.

The price bids for a Minimum Annual Guarantee for the three (3) bidders were as follows:

Latin American Enterprises, Inc.:
MAG year 1 \$ 501,000.00
MAG year 2 \$ 501,000.00
MAG year 3 \$1,201,000.00

Communitel/WTN, Inc. Joint Venture:
MAG year 1 \$ 489,312.00
MAG year 2 \$ 539,712.00
MAG year 3 \$ 762,912.00

Travelex Currency Services, Inc.:
MAG year 1 \$ 369,000.00
MAG year 2 \$ 332,000.00
MAG year 3 \$ 299,000.00

Subject to the procedures outlined in ITB No. MDAD-02-05, it is recommended that an Agreement be awarded to the highest responsive/responsible bidder, Latin American Enterprises, Inc. As of August 5, 2005, Latin American Enterprises is current on all payments to the Aviation Department and has paid on amounts that were previously covered under a payment plan with the Department. The next payment is for rent due under its permit by September 10, 2005.

PROTEST

On or about June 15, 2005, a protest was filed by Adorno & Yoss the representative for Communitel/WTN joint venture. The protest stated that LAE failed to materially comply with the requirements of the ITB and that they were therefore non-responsive and not responsible to the ITB. A protest hearing was then scheduled and held on June 28, 2005 with Hearing Examiner, Leonard Rivkind, a retired judge. On July 7, 2005, Judge Rivkind, issued his findings and recommendation which concluded that "the County's determination that LAE was responsible and responsive, is based upon facts reasonably tending to support these conclusions, and is the result of an honest and reasonable exercise of its discretion. The undersigned finds that the actions of the County were not arbitrary and capricious. Further, the undersigned specifically finds that the actions of LAE, or the County in evaluation its bid, did not confer any competitive advantage to LAE" (Refer to Hearing Examiner's report dated July 7, 2005).

PROJECT: ITB for Non-exclusive Prepaid Phone Card Vending Machines

PROJECT NO.: ITB No. MDAD-02-05

PROJECT LOCATION: Miami International Airport

DESCRIPTION OF PROJECT: Concession for one (1) qualified firm or individual(s) to provide equipment, installation, operation, and maintenance of prepaid phone card vending machines located at Miami International Airport.

Initially, the successful bidder shall operate thirty-seven (37) prepaid phone card vending machines at various locations in Miami International Airport. To accommodate ongoing construction and changes in market trends or passenger flows at the Airport, the number of locations is subject to change.

FIRM: Latin American Enterprises, Inc.

LOCATION OF FIRM: 1061 E 23rd Street
Hialeah, FL 33103

TERM OF AGREEMENT: Three (3) years

OPTION(S) TO RENEW: A one-year option to renew

RECOMMENDED AGREEMENT MEASURES: RC review is not required for this project. The DBE goal established under federal guidelines is 30%. Latin American Enterprises, Inc. is a certified DBE firm.

ADVERTISEMENT DATE: March 8, 2005

LIVING WAGE: Not Applicable

PAYMENTS TO THE COUNTY: \$2,203,000.00 over the three-year period
Annual MAG year 1 \$ 501,000.00
Annual MAG year 2 \$ 501,000.00
Annual MAG year 3 \$1,201,000.00
The Concessionaire shall pay the County 25% of the monthly gross revenue or the monthly MAG, whichever is greater.

HOW LONG IN BUSINESS: Fourteen (14) years

COMPANY PRINCIPALS: Juan Jose Pino

PREVIOUS AGREEMENT(S) WITH THE COUNTY: The selected Bidder has an existing month-to-month Permit with the Department which contains a MAG amount of \$250,000 per year.

GENDER, ETHNICITY AND OWNERSHIP BREAKDOWN: 100% Hispanic Male Owned

AFFIRMATIVE ACTION PLAN DATE: N/A

INSPECTOR GENERAL/ IPSIG: Provisions included in the Agreement

6

USING AGENCY: Miami-Dade Aviation Department

FUNDING SOURCE: This is a revenue-generating contract

STAFF PROJECT MANAGER: Patricia Ryan, Manager Commercial
Operations



Deputy County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: September 8, 2005

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 8(A)(1)(E)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(A)(1)(E)
09-08-05

RESOLUTION NO. _____

RESOLUTION AWARDING TO LATIN AMERICAN ENTERPRISES, INC. THE PREPAID PHONE CARD VENDING MACHINES CONTRACT AT MIAMI INTERNATIONAL AIRPORT, ITB NO. MDAD-02-05; AUTHORIZING COUNTY MANAGER OR DESIGNEE TO EXECUTE AGREEMENT AND TERMINATION PROVISIONS CONTAINED THEREIN; WAIVING REQUIREMENTS OF RESOLUTION NO. R-377-04

WHEREAS, the Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby awards to Latin American Enterprises, Inc. the Prepaid Phone Card Vending Machines Contract at Miami-International Airport, ITB No. MDAD-02-05, for the provision of equipment, installation, operation and maintenance of the prepaid phone vending machines located in Miami International Airport, for a three (3) year term, with one (1) year option to renew, for a minimum annual guarantee of \$501,000.00 for the first year and for the second year, and \$1,201,000.00 for the third year, as set forth in the attached memorandum from the County Manager; this Board authorizes the County Manager or designee to execute the Agreement between Miami-Dade County and Latin American Enterprises, Inc., in substantially the form attached hereto and made a part hereof,

5

and to exercise the termination provisions contained therein. Upon the recommendation in writing of the County Manager, the requirements of Resolution No. R-377-04 are hereby waived pursuant to Section 4 of said resolution.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Dennis C. Moss, Vice-Chairman	
Bruno A. Barreiro	Dr. Barbara Carey-Shuler
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of September, 2005. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency. RW

Roy Wood

HARVEY RUVIN, CLERK OF THE BOARD

IN RE: THE JUNE 15, 2005 PROTEST OF
AWARD OF CONTRACT FOR PREPAID PHONE
CARD VENDING MACHINES AT MIAMI
INTERNATIONAL AIRPORT, PROJECT NO.
MDAD- 02-05

COMMUNITEL, INC. /WTN Joint Venture
a Florida corporation.

Petitioner,

v.

MIAMI-DADE COUNTY, a political subdivision of
The State of Florida.

Respondent,

and,

LATIN AMERICAN ENTERPRISES INC.,
a Florida Corporation,
Intervener/Respondent,

CLERK OF THE BOARD
2005 JUL - 7 AM 9:15
CLERK, COMMUNITY COURT,
DADE COUNTY, FLA.

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS
TO THE COUNTY COMMISSION**

The above-styled protest filed by the Communitel/WTN Joint Venture (Communitel) was referred to the undersigned Hearing Examiner. Latin American Enterprises Inc., (LAE), the recommended bidder, filed an Unopposed Motion to Intervene in this matter. A Hearing was conducted on June 28, 2005, commencing at 9:30 a.m. at Miami International Airport (MIA) Terminal Building, Concourse A, Fourth

Floor. At that time, LAE's Unopposed Motion to Intervene was granted, and the recommended bidder became a party to the proceedings.

I. JURISDICTION AND STANDING:

The Hearing Examiner has jurisdiction over this matter pursuant to Section 2-8.4 of the Code. Said provision authorizes the Hearing Examiner to consider the written bid protest and supporting documents and evidence appended thereto of any protestor¹, as well as arguments from counsel and other witness testimony presented at time of Hearing.

The undersigned finds that Communitel was the second highest bidder on the above-referenced competitive solicitation, and therefore, has standing to contest the Manager's recommendation, unless specific issues of protest are barred by ordinance, or case law. See *Preston Carroll Company, Inc. v. Florida Key Aqueduct Authority*, 400 So. 524 (Fla. 3rd DCA 1981). As will be more fully explained in the Section on Conclusions of Law *infra*, the undersigned further finds that Communitel lacks standing to present the arguments contained in Section B of its protest (Failure To Provide Operational References) as well as Section J (Latin American Enterprises Payment History) based on the holding in *Intercontinental Properties Inc. v. State Department of Health and Rehabilitative Services*, 606 So. 2d 380,386 (Fla. 3rd DCA 1992).

II. BACKGROUND

The evidence introduced by the parties indicates that LAE, Communitel Inc., and WTN Inc. have been operating phone card concessions at the airport for approximately

¹ Provided such protest complies with these specific requirements of section 2-8.4 (b).

ten years as a result of permits issued by Miami-Dade Aviation Department (MDAD). The evidence also shows that there was a previous competitive solicitation to operate this concession in the entire Airport. The three companies referenced above participated in that solicitation process. Ultimately, the County Commission rejected all bids and directed County staff to issue a new Invitation to Bid, (ITB) which is the subject of this protest. In the instant solicitation, LAE filed its bid as a corporation, whereas Communitel Inc. and WTN Inc. formed a Joint-Venture (Communitel) that submitted its bid.

III. FINDINGS OF FACT

1. The subject contract was advertised as an Invitation to Bid (ITB), on or about March 8, 2005. (See ITB For Prepaid Phone Card Vending Machines at MIA Project No. MDAD 02-05)
2. Through this competitive bid process, the County solicited one qualified firm or individual for the installation, operation, and maintenance of Pre-Paid Phone Card Vending Machines located at Miami-International Airport (MIA) (*Id.*)
3. Several proposers responded to the ITB on or before the submission date. (See LAE Bid Submission at LAE Exhibit 2; See also Communitel Bid Submission at LAE Exhibit 3)
4. The solicitation required each bidder to submit a Minimum Qualifications and Questionnaire Form (MQQF), a Minimum Annual Guaranty Bid Form (MAG). (See Communitel Bid Protest, Tab 1)

5. Award of the contract was to be made to the responsive and responsible bidder that proposed the highest MAG to the County. (See ITB MDAD 02-05)
6. LAE was deemed by the County staff and County Attorney's office to be the highest responsible and responsive bidder. (See LAE Composite Exhibit 4)
7. Communitel was deemed by the County to be the second highest responsible and responsive bidder. (Id.)
8. On or about June 2, 2005, the County Manager issued a recommendation to award to LAE. (See Communitel Bid Protest, Tab 4)
9. On or about June 15, 2005, Communitel filed a timely bid protest to the Manager's recommendation. (See Communitel Bid Protest)
10. As provided for in Section 2-8.4, the Clerk's office assigned the protest to the undersigned Hearing Examiner, and a Hearing was set for June 28, 2005. At this Hearing, all parties were given an opportunity to introduce evidence and witnesses and make arguments, within the time limits prescribed by the Code. Communitel and LAE did not present witnesses, the County offered testimony from Ms. Lenora Allen Johnson, Contracting Officer for Miami-Dade County and Ms. Anne Lee, Assistant Aviation Director for Professional Compliance. The Hearing was continued until July 1st, 2005, and all parties were directed to file Memorandums and/or Proposed Findings of Fact and Conclusions of Law, if they so desired, by 5:00 p.m. on Friday, July 1, 2005.
11. Question 5 (f) of the MQQF requested bidders to attach a copy of its Corporate Charter, a current Certificate of Corporate Status or Authorization issued by the Florida Secretary of State, proof of registration with the Florida

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Secretary of State, and certificate evidencing compliance with the Florida Fictitious Name Statute, if applicable. (See Communitel Bid Protest, Tab 2)

12. In lieu of filing its Certificate of Corporate Status, LAE filed the Online Certificate available from the Florida Department of State, Division of Corporations. This documents states that LAE's status is "Active" and its last annual report was filed on May 4, 2004. (See LAE Exhibit 2 and Testimony of Lenora Allen-Johnson, MDAD Contract Officer, Pages 106 - 108 of Hearing Transcript)
13. Leonora Allen-Johnson, MDAD's Contract Officer, testified that she is familiar with the Online Certificate, and often utilizes the Online Service to verify the corporate status of the actual bidders. She further stated that she is aware of the fact that Annual Reports are filed on a yearly basis and are due on or before the Anniversary of the previous filing. (*Id.*)
14. Ms. Allen-Johnson also testified that the specifications issued by MDAD in the ITB authorize the Department to seek additional information from the bidders (Page 9 of the instant ITB). Ms. Allen-Johnson testified that she asked LAE to supplement the Online Certificate with a Certificate or Corporate Status, which was furnished by LAE subsequent to the submission deadline. This Certificate of Good-Standing confirmed that the information provided in the Online Certificate, submitted at the time of the bid, was correct. No evidence was presented to demonstrate that LAE was not authorized to do business in the State of Florida on the bid submission date. (*Id.* At Pages. 114 to 120)

15. No evidence was presented to indicate what, if any, competitive advantage was gained by LAE as a result of filing the Online Certificate, rather than the "Certificate of Corporate Status" issued by the Florida Secretary of State. (See Hearing Transcript)
16. Question 7 of the MQQF requested bidders to "give name and addresses of at least three (3) non-affiliated references for operational and financial performance (reference letters may be submitted)". (See Communitel Bid Protest, Tab 2)
17. LAE submitted three letters from Financial Affairs Corp., AC Graphics and Edward D. Colina & Associates, Inc., which generally attested to LAE's payment history and business relationship with these companies. (See LAE Exhibit 2)
18. Communitel submitted three (3) letters of reference from Total Call International, Houston Global Direct Communication and Q-Quest which generally attested to Communitel's payment history and business relationship with these companies. (See LAE Exhibit 3)
19. None of the letters of recommendation of either bidder described its operational performance. (*Id.*)
20. Question 8 of the MQQF requested bidders to "give names and addresses of at least three bank references (reference letters may be submitted)."
21. Communitel submitted three letters from different banks with which it does business. (See LAE Exhibit 3)
22. LAE responded by providing a document which stated "Latin American Enterprises, Inc. has only worked with Bank of America during the past 14

- years. We have a strong commercial relationship with them." The document further provided account information and the contact information of its bank officer for the County to verify the bank reference. (See LAE Exhibit 1)
23. Question 10 of the MQQF requested bidders to provide a Financial Statement audited by an independent public accountant or in lieu thereof, to provide "its latest filed Federal Tax Return." (See Communitel Bid Protest, Tab 2)
24. LAE provided its 2003 Federal Tax Return. (See LAE Exhibit 2)
25. Communitel provided an Audited Financial Statement for Communitel, Inc., a (non-audited) Financial Statement for WTN that was performed on "a comprehensive basis of accounting other than generally accepted accounting principles", and a 2003 Corporate Income Tax Return for WTN. (See LAE Exhibit 3)
26. Neither WTN Inc., (a Communitel Joint Venture partner) nor LAE filed a document evidencing a request for extension to file their 2004 tax return. (See LAE Exhibits 2 and 3)
27. The bid specifications did not require the filing of a document evidencing a request for extension of the current year tax return. (See Communitel Bid Protest at Tab 2 and Testimony of Ms. Anne Lee, Hearing Transcript at Page 124)
28. Question 10 (4) of the MQQF requested the bidder to disclose whether the bidder or any principal of bidder, any family member of any principal or any person or entity with which such person has a business relationship, has had, within the last fifteen years any business relationship with the County. (*Id.*)

- 29. LAE answered this question in the affirmative and referenced Attachment 9 of its bid submission. (See LAE Exhibit 2)
- 30. Attachment 9 of LAE's bid submission details the permit numbers and history of award of permits to LAE by the County. (*Id.*)
- 31. Question 13 (B) of the MQQF states that "the bidder shall demonstrate by attaching information or necessary documentation that ... (B) The bidder represents that it has owned, operated, or managed, operated or owned a pre-paid phone card vending machine business generating at least four hundred thousand dollars (\$400,000) in gross annual sales for each of the qualifying years." (See Communitel Bid Protest, Tab 2)
- 32. LAE answered by referring the County to its Attachment 5 and Attachment 9 of its bid submission. (See LAE Exhibit 2)
- 33. Attachment 5 consists of its 2003 Federal Tax Return and a chart showing gross revenues of LAE and its affiliates for several years. (*Id.*)
- 34. Attachment 9 provides the information on the permits that have been granted to LAE by the County for the last ten years. (*Id.*)
- 35. An August 25, 2004 Audit Report conducted by the County's Audit and Management Services Department contains a Table III, at Page 4, which shows the gross income of Communitel, LAE and WTN from 1999 to 2004. (See LAE Exhibit 1)
- 36. Under Table III, there is a notation which states that the source of the information is derived from the "Aviation's Department's Finance Division". (*Id.*)

37. Said Table shows that from 1999 to 2004, LAE has achieved annual gross sales in excess of four hundred thousand dollars (\$400,000). (*Id.*)

38. Ms. Anne Lee, a Certified Public Accountant and Assistant Aviation Director for Professional Compliance, testified that all permittees must report their gross sales to Miami-Dade County Aviation Department, pursuant to current permit requirements, on a monthly basis. (See Anne Lee Testimony, at Pages 126 - 129)

39. Ms. Lee further testified that the information referenced in Table III of the Audit Report is contained within the records of the County, corresponding to the permit numbers referenced by LAE in Attachment 9 of its bid submission. (*Id.*)

40. Question 13 (E) of the MQQF requests information concerning where the machines that will be placed in the airport locations. It states that, "the information requested shall include type, capabilities, dimension, and all reporting functionalities and capabilities (e.g. paper trail, electronic monitoring, information that revenue calculating devices in the machine are tamper proof, etc.) It further requests that the bidder supply a certificate from the manufacturer of the machines certifying that the revenue mechanism creating the reports in the machines is tamper proof. (See Communitel Bid Protest, Tab 2)

41. LAE provided voluminous information in its submission regarding the type, capabilities, dimensions, and all reporting functionalities of the machines that it proposed, including information regarding the security features and

- protocols to ensure that the machine's reporting and revenue mechanisms were tamper proof. (See LAE Exhibit 2)
42. Ms. Allen-Johnson testified that, subsequent to bid submissions, she requested that LAE provide a certificate from the manufacturer. (See Lenora Allen Johnson Testimony at page 105).
43. Ms. Allen-Johnson further testified that LAE complied with the request and produced a certificate for the machines which were proposed in the bid. (*Id.*)
44. Question 10 (3)(d) of the MQQF requested bidders to disclose whether the "bidder or any principal of bidder ... has been the subject of any criminal or civil proceeding pertaining to concessions operations at any airport, or pertaining to any aspect of the Aviation Industry." (See Communitel Bid Protest at Tab 2)
45. LAE answered this question in the negative. (See LAE Exhibit 2)
46. Communitel introduced as evidence, a translation of a newspaper article from "El Nuevo Herald" which quoted a newspaper article from "El Clarin", a newspaper in Argentina. (See Communitel Bid Protest, Tab 6)
47. This article generally stated that a company by the name of Telecard, in which Juan José Pino, the principal of LAE was a stockholder, was subject to litigation in Argentina. (*Id.*)
48. There was no evidence presented that Telecard was either "the bidder or any principal of bidder". (*Id.*)
49. The RFP did not require disclosure of litigation information for affiliates of the bidder or companies in which the principal of the bidder had an ownership interest. (See ITB MDAD 02-05)

50. In evidence is a complaint for damages styled *Bernard Sansaricq v. Latin American Enterprises and Juan José Pino*, Miami-Dade County Case No. 00-01801 CA 04. The lawsuit was filed by a former employee of LAE and claims that the Plaintiff was discriminated in or during his employment with LAE. (See Communitel Bid Protest , Tab 7)
51. No evidence was presented concerning the disposition of the aforesaid case.
52. There was evidence to the effect that LAE has been late on several payment obligations to the County resulting from its current permits to conduct phone card operations at the airport. (See Communitel Bid Protest, Tab 8)
53. In response, LAE presented its Exhibit 1, the Audit Report by Miami-Dade County's Audit and Management Services Department. (See LAE Exhibit 1)
54. At Page 3 of the Audit Report, there is a Table II which details the number of late payments by WTN Inc., Communitel Inc., and LAE Inc. from 2001 to 2004. (*Id.*)
55. Said Table demonstrates that LAE and Communitel were both late on payments to Miami-Dade County.
56. The report also states that Communitel was in arrears to the County on another agreement with the County for baggage check room concessions at MIA and negotiated a payment plan to address its arrears. According to the audit report, Communitel only provided fifty percent (50 %) of the scheduled monthly payments on the payment plan, unilaterally extending the payment terms from six to twelve months. (*Id.*)

57. Additionally, the Report states that Communitel had not made MAG payments on its baggage concession contract with the County from May through July of 2004. (*Id.*)

58. Communitel did not present any rebuttal evidence to contradict or explain any of the findings in the Audit Report. (See Hearing Transcript)

IV. GOVERNING LEGAL STANDARDS

Well established Florida Law recognizes that a public body has wide discretion in soliciting and accepting bids for public improvements. When based on an honest exercise of this discretion it will not be overturned by a court absent a showing of illegality, fraud, oppression or misconduct. See *Liberty County v. Baxter Asphalt*, 421 So. 2d 505 (Fla. 1982); *Central Florida Equipment Rentals of Dade County, Inc. v. Dunn Co.*, 586 So. 2d 1171 (Fla. 3d DCA 1991). See also *Department of Transportation v. Grove-Watkins Constructors* 530 So. 2d 912 (Fla. 1988).

The protesting bidder has the burden to prove that it has standing to allege a deficiency of all bidders in line before it, and that the alleged deficiencies are material. See *Robinson Electric Company Inc. v. Miami-Dade County*, 417 So. 2d 1031 (Fla. 3rd DCA 1982); See also *Preston Carroll Company Inc. v. Florida Keys Aqueduct Authority* 400 So. 2d 524 (Fla. 3rd DCA 1981)

IV. CONCLUSIONS OF LAW

The Hearing Examiner cannot conclude from the evidence presented that the actions of the County were the result of fraud, coercion, collusion or similar inappropriate conduct. Therefore, the narrow issue presented to the Hearing Examiner is whether the County's determination of responsiveness and responsibility of LAE was arbitrary and capricious. The Hearing Examiner cannot conclude from the evidence presented that the County's determination was arbitrary and capricious.

The following Conclusions of Law will generally follow the sub-heading contained in the Protest Document.

A. Good Standing:

Question 5 (F) of the MQQF requested bidders to provide a "current 'Certificate of Corporate Status' or 'authorization' issued by the Florida Secretary of State." LAE provided an Online Certificate available from the Florida Department of State's Division of Corporations which indicated that its status was "Active" and that its last annual report was filed on May 4, 2004. Ms. Allen-Johnson testified that she routinely uses this Online service to verify the corporate status of proposers and relies on this information in the regular course of business. Ms. Allen-Johnson stated that the bid submission date was April 8, 2005. Ms. Allen-Johnson further testified that based on the date of LAE's last filed Annual Report, the proposer would still have been in good-standing on the bid submission date.

In the instant matter, LAE provided a document from the Online service of the Florida Department of State's Division of Corporations that is commonly relied on by Miami-Dade Aviation Department, which evidenced its active corporate status, and indicated that its Annual Reports are current. The County's decision to accept this document as evidence of good corporate standing is an appropriate exercise of

discretion and based on facts reasonably tending to support the conclusions reached by the County.

B. Failure to Provide Operational References:

LAE submitted three letters from companies with which it does business. These letters generally attested to LAE's good payment history with these companies. Similarly, Communitel provided references from three companies with which it does business. Neither of the proposers' letters of reference attests to the operational performance of the bidders. The term "operational" is not defined in the bid documents. The County accepted both LAE's and Communitel's letters of reference. The undersigned concludes that the County's decision in this regard was founded on an honest and reasonable exercise of its discretion. The undersigned finds that the letters of reference provided by both bidders substantially complied with the requirement in the MQQF.

C. Bank References:

LAE failed to provide three bank references as requested in Question 8 of the MQQF. LAE responded to this question by stating: "Latin American Enterprises, Inc. has only worked with Bank of America during the past 14 years. We have a strong commercial relationship with them." LAE also supplied the company's account numbers, as well as the name and contact information for its bank officer. The County determined that LAE was responsive based on the information provided. The undersigned concludes that Miami-Dade County's determination that LAE was responsive to this request was a reasonable exercise of its discretion in light of the facts presented.

D. Financial Disclosure:

24

Question 10 of the MQQF requests that bidders present Financial Statements, audited by an independent public accountant, or, in the alternative, the bidder's "latest filed Federal Tax Return". In response thereto, LAE provided its 2003 Federal Tax Return. LAE did not submit a 2004 Tax Return, and did not submit a document evidencing a request for extension to file its 2004 Tax Return. Ms. Anne Lee testified that there was no provision in the Bid Specifications requiring a proposer who did not file the most current year tax return, to submit a document evidencing a request for extension. There was no evidence presented by Communitel to demonstrate that the 2003 Tax Return was not LAE's "latest filed" Federal Tax Return. The County found LAE to be compliant with this Financial Disclosure Requirement. The undersigned concludes that this determination was a reasonable exercise of the County's discretion.

E. Relationship with the County:

Question 10 (4) of the MQQF requires a bidder to disclose its business relationship with the County in the last fifteen years. LAE responded that it did have a business relationship with the County during the time period in question, and referred the County to Attachment 9 in its submission. Attachment 9 contains a document which details information relevant to the permits that LAE has been granted by the County to conduct the phone card sales concession for the last ten years, including the permit numbers. The County accepted the information as sufficient to comply with the requirement. The undersigned concludes that this determination was a reasonable exercise of the County's discretion.

F. Minimum Qualifications:

Question 13 (B) of the MQQF asks the bidder to demonstrate that it has owned or operated a Pre-Paid Phone Card Vending Machine Business generating at least four hundred thousand dollars (\$400,000) in gross annual sales for each of the qualifying years. (Three continuous years of operation in the last five years.) LAE again referred the County to its Attachment 9, as well as its Attachment 5 to its bid submission. Attachment 5 contains its 2003 Tax Return, as well as a chart showing income generated throughout the period of 1997 to 2004 in its operations, as well as operations of its affiliates. Attachment 9, as stated above, references the permits LAE has been granted by Miami-Dade Aviation Department to operate this concession at Miami International Airport for almost ten years. The requirement in Question 13 states that the bidder shall demonstrate that it meets the requirement "by attaching information or necessary documentation". Ms. Anne Lee testified that the information provided by LAE, which referenced the permit numbers, was sufficient to apprise the County of the specific operation that LAE conducted to meet the four hundred thousand dollar (\$400,000) gross annual sale requirement for the qualifying years. Indeed, Ms. Anne Lee also testified that LAE's Exhibit 1, the Audit Report generated by Miami-Dade County's Audit and Management Department, contains a chart titled Table III that showed LAE's annual gross sales from 1999 to 2004. LAE achieved annual gross sales in excess of four hundred thousand dollars (\$400,000) in each of those years. Ms. Lee testified that this information is contained in the records of the Aviation Department's Finance Division, since all permittees are required to report this information to Miami-Dade County Aviation Department.

The Hearing Examiner concludes that LAE's submission, referring Miami-Dade County to the permits issued by the County to operate this concession, is sufficient to

26

comply with the requirement of "attaching information or necessary documentation" as evidence that it meets the annual gross sales requirement.

G. Failure to Provide Current Evidence that LAE is Authorized to do Business in Florida:

This subsection of Communitel's Protest Document makes the same argument that was propounded in its Subsection A, and fails on the grounds previously stated.

H. Failure to Provide Required Information for Machines:

Questions 13 (E) of the MQQF asks the bidder to supply "[i]nformation concerning the machines it will place at the location. The information requested shall include type, capabilities, dimensions, and all reporting functionalities and capabilities (e.g. paper trail, electronic monitoring, information that revenue calculating devices in the machines are tamper-proof, etc.)." It further asks that the bidder supply "a certificate from the manufacturer of the machines, signed by an authorized representative of the manufacturer, certifying the revenue mechanism that created the reports in the machines is tamper-proof." In response to this request, LAE included in Attachment 7 of its submission, voluminous information detailing all the specifications of the machine including type, capability, different dimensions, functionality, and security features. Ms. Allen-Johnson testified that this information demonstrated that the machines did contain the required security devices. Upon review of the submission, she exercised the right reserved to the County in the bid specifications to seek additional documentation, and requested that LAE furnish a Manufacturer's Certificate. LAE complied with this request and furnished a Manufacturer's Certificate, for the same machines that it proposed and described

in its bid submission. Miami-Dade County deemed LAE compliant with the above-stated requirement.

The undersigned finds that the determination that the initial information submitted was substantially compliant, was a reasonable exercise of the County's discretion.

I. Civil Proceeding Pertaining to Concession Operations at any Airport or any Aspect of the Aviation Industry:

Question 10 (3)(D) asks the bidder to state whether the bidder or any principal of the bidder "has been the subject of any criminal or civil proceeding pertaining to concessions operations at any airport, or pertaining to any aspect of the Aviation Industry". LAE answered "no" to this question. In evidence is a translation of an article appearing in "*El Nuevo Herald*" newspaper, quoting "*El Clarin*", an Argentinian newspaper. The "*El Nuevo Herald*" article reported that "*El Clarin*" asserted that a company by the name of Telecom had filed suit against a company by the name of Telecard in Argentina. "*El Nuevo Herald*" stated that "*El Clarin*" asserts that Juan José Pino, the principal of LAE, has an ownership interest in Telecard.

The evidence presented was insufficient to support a factual determination. Nevertheless, it does not appear that the evidence presented provides a competitive advantage to LAE. Furthermore, the evidence presented constituted hearsay.

Second, in evidence is a complaint for damages filed in the 11th Judicial Circuit in and for Miami-Dade County, to wit, *Bernard Sansaricq v. Latin American Enterprises and Juan José Pino*, Case No. 00-01801 - CA 04. According to the Complaint, Mr. Sansaricq was a former employee of LAE and sued LAE under State and Federal Statutes for employment discrimination and unlawful termination. As

earlier stated, no evidence was presented concerning the disposition of this lawsuit. The evidence is insufficient to support a factual determination.

J. Latin American is not Responsible or Responsive for Failure to Adequately Perform under Prior County Contracts:

County Code Section 2-8.1 (G) and (H) sets forth the requirement "that a bidder's performance as a primary contractor or subcontractor on previous County contracts shall be taken into account in evaluating bids and proposals received for County contracts." LAE has been late in complying with payment obligations to the County with respect to its existing Pre-Paid Phone Card Machine Operations at Miami International Airport.

LAE presented evidence in the form of an Audit Report by the County's Audit and Management Department regarding Communitel, Inc. and WTN, Inc.'s payment history on its contracts and permits with Miami-Dade County. At Page 4 of this report, there is a Table II which documents the payment history of LAE, Communitel and WTN. This evidence demonstrates that Communitel and WTN both have been late in their payment obligations to Miami-Dade County. Communitel and WTN have been jointly late in 77 payments to the County within the time period analyzed in the report. Additionally, the audit report states that Communitel negotiated a payment plan to address its arrears on its baggage storage room concession at Miami-International Airport, and failed to comply with the terms of that payment plan. Communitel did not present rebuttal evidence to contradict or explain the findings contained in the Audit Report. The undersigned notes that Communitel was also deemed responsive by the County and was therefore not placed at a competitive disadvantage to LAE.

Section 2-8.1 of the Code requires that the County take into account this information in evaluating bids and proposals. Ms. Lee testified that the County was aware of and considered the payment history of all three companies. The evidence demonstrates that Communitel and WTN, the two members of the Communitel Joint Venture, were equally late in their payment obligations to the County.

VI CONCLUSION AND RECOMMENDATION:

Based on the above, the undersigned concludes that the County's determination that LAE was responsible and responsive, is based upon facts reasonably tending to support these conclusions, and is the a result of an honest and reasonable exercise of its discretion. The undersigned finds that the actions of the County were not arbitrary and capricious. Further, the undersigned specifically finds that the actions of LAE, or the County in evaluating its bid, did not confer any competitive advantage to LAE.

Therefore, the undersigned recommends that the County Manager's recommendation be upheld.

Dated this 7 day of July, 2005.



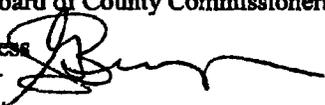
Leonard Rivkind
Hearing Examiner

Memorandum



Date: December 16, 2004

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Action Plan for New Pre-paid Phone Cards ITB

In response to the Board Action on Item 7A1B, on Tuesday, December 14, 2004, staff and I have put together an action plan to address the concerns raised by Commissioners as we move forward with an expedited solicitation for pre-paid phone card machines at Miami International Airport.

Enhancements in New Invitation to Bid (ITB)

The general categories of concerns that we will be addressing in the new Invitation to Bid and Concession Agreement include:

- Enhancing payment protection provisions in the concession agreement,
- Creating a paper trail, electronic monitoring, and otherwise enhancing the auditability of machine receipts,
- Setting criteria for payment history and delinquencies as part of the determination of whether a "bidder" is responsible,
- Enhancing customer service,
- Enhancing control of operations, such as inventory and location of machines,
- Evaluating the level of percentage rents and minimum guarantee that can be supported under this concession given the current environment

In addition, the issuance of the new ITB will allow us to make sure that our business terms and contract provisions are consistent with the current best practices that are employed at other airports. We propose to take an additional month or two as part of the expedited solicitation to survey the business terms and contract provisions used at other airports with pre-paid phone card machines and incorporate the best of their approaches or learn from their lessons learned to the revised ITB and concession agreement.

Payment Plan Procedures

Contemporaneously, the Aviation Department will be working with the Office of Inspector General (OIG) and the Department of Audit and Management Services (AMS) to enhance its accounts receivable monitoring processes and establish tighter parameters on the issuance of payment plans. The implementation of the new financial system known as ERP, as approved by the Board on December 14, 2004, will assist in these efforts. But, the Department will be working to improve its results in this area immediately.

Action Plan to Address Concerns

Payment Protection Provisions

According to the County Attorney's Office, the Performance Bond as included in the original ITB provides the County with the ability to collect from the Surety Company for the unpaid amount of the Minimum Annual Guarantee.

For the new ITB, we will require that the Performance Bond still equal the annual Minimum Annual Guarantee, but we will require that the term of the initial Bond be for the length of the concession agreement and require that it be delivered after the award of the contract by the Board but before delivery of a contract executed by the County Manager.

To further enhance that protection, we will be including a requirement that the Concessionaire provides a cashiers' check or cash to be deposited into escrow or letter of credit to serve as a security deposit equal to three months of the monthly Minimum Annual Guarantee. This will provide additional liquidity for collection of payment deficiencies. It is possible that bidders will cite this protection as an additional cost burden, but we understand the need to improve the collectibility of our revenues.

Additional administrative resources will be dedicated to the monitoring of payments and prompt follow-up by a collection representative in the case of late payments. Late payment fees of 1 ½ % per month will be assessed as provided in the agreement and by Board Resolution. Procedures will be developed with input from the OIG and AMS for notices and draws on the payment security.

Enhanced Revenue Controls and Auditability

The Aviation Department will work with its consultant, Center for Airport Management (CAM), to determine what alternatives are available with current technology and machine prototypes to make this operation better subject to audit. The methods to be explored include producing a paper trail of transactions, electronic monitoring, etc. The Aviation Department will also work with the OIG and AMS to improve auditing methodology for Department staff to use on an on-going basis.

Standards for Responsible Bidders

As part of the revision of the ITB documents, the Aviation Department will be working with the County Attorney's Office to develop criteria that can be used to disqualify bidders for poor payment history or outstanding delinquencies.

Customer Service Issues and Best Practices at Other Airports

The Aviation Department will work with CAM to survey other airports that currently have pre-paid phone card machines. The survey will be designed to determine:

- the basic business terms for their agreements,
- methods that they have used to audit operations and receipts,
- number and placement of locations and methods for controlling operations,
- controls on price/minutes offered,
- common customer complaints and how they have been able to address those issues,
- copies of their contract language, and

- other best practices that they have incorporated into the oversight of the operation.

Expected Revenues under New ITB

Given changes in the usage of pre-paid phone cards, the new ITB will most likely produce significantly lower revenues to the Aviation Department. Staff and CAM will survey other airports to determine their fee structure and Minimum Annual Guarantee requirements. Staff will also meet with the industry to see if there are ways to enhance phone card sales. However, we will need to balance this revenue generation with providing customer service and allow passengers who are uncomfortable with the machines or who do not have the correct bills with the opportunity to buy cards through retail stores. We will also continue to evaluate the contractual rights for the County-wide pay phone provider to offer discounted long distance service.

Proposed Schedule for ITB

December – January, 2005	Survey developed and issued to comparable airports Document review by staff to discern language and issues to be addressed. Presentation of survey findings and recommended business terms and issues to be addressed to the Transportation Committee.
February 2005	Development of Invitation to Bid document with input from OIG and AMS Industry Review Meeting. County Manager's Report to Transportation Committee on Final Bid document
March 2005	Issue Invitation to Bid documents.
March 2005	Pre-bid meeting.
April 2005	Bids due.
April 2005	Evaluation of the bid and preparation of recommendation to County Manager.
May 2005	Presentation of award recommendation to Transportation Committee
May 2005	Presentation of award recommendation, waiver of bid protest procedures and reconsideration period to the Board of County Commissioners

Harvey Ruvin
CLERK OF THE CIRCUIT AND COUNTY COURTS
Dade County, Florida

CLERK OF THE BOARD OF COUNTY COMMISSIONERS
STEPHEN P. CLARK METRO-DADE GOVERNMENT CENTER
SUITE 17-202

111 N.W. 1st Street
Miami, FL 33128-1983
Telephone: (305) 375-5126

July 7, 2005



Alfredo L. Gonzalez, Esq.
Adorno & Yoss
2525 Ponce de Leon Boulevard
Suite 400
Miami, Florida 33134

Re: Bid Protest
Bid No. ITB No. MDAD-02-05
Non-Exclusive Phone Cards Vending Machines at Miami International Airport

Dear Mr. Gonzalez:

Pursuant to Section 2-8.4 of the Code and Administrative Order 3-21, forwarded for your information is a copy of the Findings and Recommendations filed by the hearing examiner in connection with the foregoing bid protest which was held on June 28, 2005.

Should you have any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,
HARVEY RUVIN, Clerk
Circuit and County Courts

By Kay Sullivan
Kay Sullivan, Director
Clerk of the Board Division

KS:fd
Attachment

- cc: George Burgess, County Manager (hand-delivered)
- Robert Cuevas, Assistant County Attorney (hand-delivered)
- Roy Wood, Assistant County Attorney (via Inter-Office Mail)
- Henry Gillman, Assistant County Attorney (via Inter-Office Mail)
- Mariana Singer, Director, DPM (hand-delivered)
- Walter Fogarty, DPM (hand-delivered)
- Carlos F. Bonzon, Interim Director, Aviation Department (via Inter-Office Mail)
- Ann Sotornio, Associate Aviation Director (via Inter-Office Mail)
- Miguel DeGrandy, Esq. (via US Mail)
- Traveler Currency Services, Inc. (via US Mail)

Central Depository • Civil Division • Clerk of the Board • Code Enforcement • Comptroller / Auditor • County Recorder
Criminal Division • District Courts Division • Family Courts Division • Human Resources / Administrative Services • Juvenile Division
Marriage License • Parking Violations • Records / Archives Management • Technical Services Division • Traffic Division • V.A.B.

34

AGREEMENT

BY AND BETWEEN

MIAMI-DADE COUNTY, FLORIDA

AND

LATIN AMERICAN ENTERPRISES, INC.

(“CONCESSIONAIRE”)

FOR

PREPAID PHONE CARD VENDING MACHINES

AT

MIAMI INTERNATIONAL AIRPORT

TABLE OF CONTENTS**Page**

Definitions	1
Article 1 – Term, Extension and Locations	3
1.01 Term	3
1.02 Extension	3
1.03 Termination	3
1.04 Locations	4
1.05 Additions, Deletions and Relocations	4
1.06 Nonexclusivity	4
1.07 Bid Incorporated	5
Article 2 – Use of Locations	5
Article 3 – Payments and Reports	5
3.01 Minimum Annual Guarantee	5
3.02 Percentage Fee to the County	6
3.03 Performance Bond for MAG Requirements	6
3.04 Gross Revenues	6
3.05 Taxes	7
3.06 Reports of Gross Revenue	7
3.07 Late Payment	7
3.08 Dishonored Check or Draft	8
3.09 Address for Payments	8
3.10 Revenue Control Procedures	9
3.11 Annual Audit	9
3.12 Right to Audit/Inspect	9
3.13 Records and Reports	10
3.14 Additional Reports	11
3.15 Additional Sums Due	11
3.16 Utilities	11
3.17 No Negotiations	12
3.18 Other Reports	12
3.19 Liquidated Damages	12
Article 4 – Standards of Service	13
4.01 Operating Requirements	13
4.02 Management and Personnel	13
Article 5 – Services	14
Article 6 – Equipment	15
6.01 Equipment	15
6.02 Americans with Disabilities Act Requirements	15
6.03 Disposal of Equipment	16
Article 7 – Maintenance	16
7.01 Cleaning	16
7.02 Removal of Trash	16
7.03 Maintenance and Repair	16
7.04 Failure to Maintain	17

Article 8 – Assignment and Ownership	17
8.01 No Assignment	17
8.02 Ownership of the Concessionaire	17
8.03 Change of Control	17
Article 9 – Indemnification	17
Article 10 – Insurance	18
Article 11 – Termination by County	19
11.01 Termination for Abandonment	19
11.02 Payment Default	19
11.03 Other Defaults	19
Article 12 – Claims and Termination by Concessionaire	19
12.01 Administrative Claim Procedures	19
12.02 Termination	20
Article 13 – Disadvantaged Business Enterprises	20
13.01 DBE Requirements	20
13.02 Counting DBE Participation Toward Contract Goals	20
13.03 DBE Goal Achieved through Joint Venture (“JV”) Partnering	21
13.04 Certification-Disadvantaged Business Enterprise (DBE)	23
13.05 Affirmative Action and Disadvantaged Business Enterprise Programs	23
13.06 Disadvantaged Business Enterprise Participation Plan	23
Article 14 – Rules, Regulations and Permits	24
14.01 Rules and Regulations	24
14.02 Violations of Rules and Regulations	24
14.03 Permits and Licenses	25
Article 15 – Governing Laws	25
15.01 Governing Law; Venue	25
15.02 Registered Office/Agent Jurisdiction	25
Article 16 – Actions at Termination	25
16.01 Surrender of Locations	25
16.02 Removal of Personal Property	25
16.03 Failure to Vacate	26
Article 17 – Trust Agreement and Bond Resolution	26
17.01 Trust Agreement	26
17.02 Adjustment of Terms and Conditions	26
17.03 Concessionaire’s Right to Terminate	26
Article 18 – Other Provisions	27
18.01 Payment of Taxes	27
18.02 Alterations by Concessionaire	27
18.03 Rights to be Exercised by Department	27
18.04 Administrative Modifications	27
18.05 Security	27
18.06 Rights of County at Airport	27
18.07 Federal Subordination	28
18.08 Notices	28
18.09 Severability	28

18.10 Rights Reserved to County	28
18.11 Lien	28
18.12 Authorized Uses Only	28
18.13 No Waiver	29
18.14 Right to Regulate	29
18.15 Inspections	29
18.16 Independent Private Sector Inspector General Review	29
18.17 Miami-Dade County Inspector General Review	29
18.18 Radon Disclosure	30
18.19 Trademarks and Licenses	30
18.20 Destruction of Locations	30
18.21 Headings	31
18.22 Binding Effect	31
18.23 Subcontractors	31
Article 19 – Waiver of Claims	32
Article 20 – Required, General and Miscellaneous Provisions	33
20.01 Agreements with State of Florida and Miami-Dade County	33
20.02 Right to Amend	33
20.03 Right to Modify	35
20.04 Tax Exempt Status of Department Revenue Bonds	35
20.05 Remedies	36
20.06 Warranty of Concessionaire as to Conflicts of Interest	36
20.07 Regulations of Department	36
20.08 Not Used	36
20.09 Bidders Single Execution Affidavits and Condition of Award Certificates	36
20.10 Airfield Operations Area (AOA) Security	37
20.11 Miscellaneous Provisions	39
20.12 Lobbying Rules	40
20.13 Entire Agreement	40
Signature Page	41
 <u>Attachments to this Agreement</u>	
Appendix A – Scope of Services	
Exhibit A-1 – Locations Summary	
Exhibit A- Phone Card Machines Location List	
Exhibit B – Performance Bond for MAG	
Exhibit C – Tenant Airport Construction – Non Reimbursable Procedures	
Exhibit D – Audit Reports	
Exhibit E - Monthly Report of Gross Revenues	
Exhibit F – Lobbying Rules	

DEFINITIONS

The term "Agreement" shall mean this Agreement as signed and executed by the Concessionaire and the County.

The term "Airport" shall mean Miami International Airport.

The term "Airport Director or Designee" shall mean the person assigned to oversee the project.

The term "Capital Improvement Program" (CIP) shall mean the Airport's construction program that will involve the refurbishment of Terminal interiors, airline relocations, changes in access to the Terminal and Concourses, construction of new concession spaces, and other improvements that may affect concession operations in the Terminal Building and on the Concourses. The CIP may affect the operation of the spaces, and **THE DEPARTMENT NEITHER MAKES NOR IMPLIES ANY WARRANTIES AS TO THE EFFECT OF SUCH CAPITAL IMPROVEMENT PROGRAM ON SAID OPERATIONS DURING THE TERM OF THIS AGREEMENT.**

The term "Central Terminal" shall mean the area of the terminal building and concourses, within the central part of the terminal area, landside or airside, which is now known as Concourses E-G.

The "Clerk of the Board" shall mean the office serving as ex-officio Clerk of the Board of County Commissioners office and responsible for maintaining the ordinance and resolution indices; receiving bids and requests for proposals; executing contracts, agreements and change orders; and advertising public hearings; among other roles.

The term "Commencement Date" shall be 30 days from the Effective Date.

The term "Concession" shall mean the operation of the Prepaid Phone Card project, performed by the Concessionaire based on this Agreement.

The term "Concessionaire" shall mean the Concessionaire who enters into an Agreement.

The term "Consumer Price Index" or "CPI" shall mean that index published by the United States Department of Labor, Bureau of Labor Statistics known as the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), U.S. Cities Average: All items.

The term "County" shall mean Miami-Dade County, Florida.

The term "Department" shall mean the Miami-Dade Aviation Department (MDAD).

The term "Effective Date" is the date the County Manager executes this Agreement.

The term "Invitation to Bid" ("ITB") shall refer to ITB No. MDAD-02-05 and shall consist of all associated attachments, affidavits, forms, addenda, etc.,

The terms "Miami Dade Aviation Department" or "MDAD" are one in the same and shall mean the County Department responsible for operating Miami International Airport.

The term "North Terminal" shall mean the area of the terminal building and concourses, within the north part of the terminal area, landside or airside now known as Concourses A-D.

The term "Scope of Services" shall refer to Appendix A to this Agreement and shall define the Services the Concessionaire shall perform in connection with this Agreement.

The term "South Terminal" shall mean the area of the terminal building and concourses, within the south part of the terminal area, landside or airside, which is now known as Concourse H, and a new J Concourse and connecting concession.

**AGREEMENT
FOR NON-EXCLUSIVE PREPAID PHONE CARD VENDING MACHINES AT
MIAMI INTERNATIONAL AIRPORT
MIAMI, FLORIDA**

This Prepaid Phone Card Vending Machines Agreement (“Agreement”) is made and entered into as of this ____ day of _____ 2005, by and between Miami-Dade County, Florida (“The County”), a political subdivision of the State of Florida and Latin American Enterprises, Inc. (“Concessionaire”) a corporation authorized to do business in the State of Florida.

WITNESSETH:

WHEREAS, the County owns Miami International Airport (“Airport”), and operates the Airport through the Miami-Dade Aviation Department;

WHEREAS, Prepaid Phone Card Vending Machines is a desired service for the convenience of the airline passengers and Airport patrons, as further described herein; and,

WHEREAS, the Airport has issued an Invitation to Bid, ITB No. MDAD 02-05, incorporated herein by reference, and the Concessionaire has submitted a Bid to provide prepaid phone card vending machines and associated services (“Services”);

NOW, THEREFORE, in consideration of the Locations, Agreement, and the mutual covenants herein contained, the parties agree as follows:

ARTICLE 1 – TERM, EXTENSION AND LOCATIONS

1.01 **TERM**: The County hereby grants use to the Concessionaire and the Concessionaire hereby agrees to use from the County, for a term of three (3) years from the Commencement Date, unless otherwise terminated or extended as provided for herein, the Locations described below, Section 1.04, for the operation of a non-exclusive Prepaid Phone Card Vending Machines Concession at Miami International Airport.

1.02 **EXTENSION**: The Department reserves the right to extend this Agreement, at its sole discretion, for a period of one year.

In the event the Department elects to extend this Agreement, the Concessionaire shall be notified, in writing, at least thirty (30) calendar days prior to the scheduled termination date of this Agreement. In the event the Department does not give such notice, this Agreement shall terminate accordingly.

1.03 **TERMINATION**: The County may terminate this Agreement upon written notice to the Concessionaire, without cause.

1.04 LOCATIONS: The County hereby provides to the Concessionaire 37 Locations, each Location measuring no more than 6 square feet, as shown on **Exhibit A**, "Phone Card Machines Location List", solely for the purpose of operating and maintaining Prepaid Phone Cards Vending Machines.

The "Capital Improvement Program" (CIP) at the Airport will involve the refurbishment of terminal interiors, airline relocations, changes in access to the Terminal and Concourses, construction of new concession spaces, and other improvements that may affect concession operations in the Terminal Building and on the Concourses. The CIP may affect the operation of these assigned spaces, and **THE DEPARTMENT NEITHER MAKES NOR IMPLIES ANY WARRANTIES AS TO THE EFFECT OF SUCH CAPITAL IMPROVEMENT PROGRAM ON SAID OPERATIONS DURING THE TERM OF THIS AGREEMENT.**

1.05 ADDITIONS, DELETIONS AND RELOCATIONS: The Department reserves the right to add, delete or relocate any of the Locations, due to, but not limited by, Airport development/construction, operational necessity, security, or safety considerations.

The Department and the Concessionaire may, by mutual agreement, add other Locations hereunder for such minimum annual guarantee and monthly opportunity fee, pursuant to Sections 3.01 "Minimum Annual Guarantee" and 3.02 "Percentage Fee to the County", and all costs associated therewith shall be paid by the Concessionaire. Such addition may originate, upon a written request from the Concessionaire to the Department with the subsequent written approval from the Department to the Concessionaire.

Upon written request to the Department, the Concessionaire may request a change to the Location. In this event, the Department shall use its best efforts, but is not required to change the Location or to provide a location with similar sales potential.

This Agreement shall be administratively revised to reflect any additions, deletions, and relocations.

Such changes will include a revised **Exhibit A** "Phone Card Machines Location List" with appropriate changes to Locations in Section 1.04 "Locations".

The Concessionaire will not add, delete, or change locations without the written approval of the Department. Failure to comply with this requirement will be subject to Section 3.19 "Liquidated Damages" or in the immediate removal of the phone card vending machine by the Department or Concessionaire and may be cause for default.

1.06 NONEXCLUSIVITY: This Agreement is nonexclusive in character and in no way prevents the County from entering into an agreement with other parties for the sale or offering of competitive services, products or items by other concessionaires or others in other locations at the Airport during the term of this Agreement.

- 1.07 **BID INCORPORATED:** The Concessionaire acknowledges that it has submitted to the County a bid ("Bid") that was the basis for the award of this Agreement and upon which the County has relied. The Bid of the Concessionaire, where not inconsistent with the terms of this Agreement, is hereby incorporated into this Agreement by reference. If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Scope of Services (Appendix A), 3) Miami-Dade Aviation Department's ITB No. MDAD 02-05 and any associated addenda and attachments thereof, and 4) the Concessionaire's Bid.

ARTICLE 2 – USE OF LOCATIONS

- 2.01 The Concessionaire shall have the right, privilege, and obligation to use the assigned Locations to operate and maintain prepaid phone card vending machines as approved by the Department.

Any sales by the Concessionaire of services, products, or items not specifically approved herein, in writing by the Department, shall constitute a default. In the event of such default, the Concessionaire will discontinue the sale or service of the unapproved product immediately, upon verbal or written notice from the Department. Failure to discontinue such sales shall be grounds for termination of this Agreement.

The determination of which Bidders are responsible shall include but not be limited to, an evaluation of the Bidder's performance on previous contracts with the County including timely submission of required payments.

- 2.02 The Concessionaire is required to operate and maintain the Locations and the prepaid phone card vending machines in a first class manner and condition. It is the intent of this Agreement to provide a pleasant, operationally efficient and financially productive environment. The Concessionaire will emphasize customer service through employee courtesy, knowledge and interest in the product and attention to detail.

ARTICLE 3 - PAYMENTS AND REPORTS

- 3.01 **MINIMUM ANNUAL GUARANTEE:** The Concessionaire shall pay to the County beginning on the Commencement Date, a Minimum Annual Guarantee in US funds as follows:

MAG year 1	\$ 501,000.00
MAG year 2	\$ 501,000.00
MAG year 3	\$1,201,000.00

The Minimum Annual Guarantee shall be prorated and payable in twelve (12) equal monthly payments, (Minimum Monthly Guarantee) in U.S. funds, on the first day of each month, in advance, and without billing, plus applicable taxes as required by law.

Prior to the second year of this Agreement and every subsequent year thereafter, including any extensions, the Minimum Annual Guarantee shall be recalculated. An appropriate adjustment will be made to reflect the change in the Consumer Price Index (CPI) for all urban consumers in the U.S., South Urban Region, for the preceding County fiscal year.

- 3.02 PERCENTAGE FEE TO THE COUNTY:** As consideration for the privileges granted the Concessionaire herein to engage in business at the Airport and not as a payment for the use and occupancy of any property, the Concessionaire shall pay to the County, in addition to the payment required pursuant to Section 3.01 "Minimum Annual Guarantee", a percentage fee of twenty-five percent (25%) of the amount by which Monthly Gross Revenues, as defined in Section 3.04 "Gross Revenues", exceed the monthly portion of the "Minimum Annual Guarantee", in US funds. The Concessionaire shall make these Payments to the County by the tenth day of the month following the month during which the Gross Revenues were received or accrued.

Percentage Fee to the County payable on any unreported Gross Revenues, determined by the annual audit required pursuant to Section 3.12 "Right to Audit/Inspect" are considered as having been due on the tenth day of the month following the month during which the unreported Gross Revenues were received or accrued.

- 3.03 PERFORMANCE BOND/SECURITY DEPOSIT FOR MAG REQUIREMENTS:**

Within thirty (30) calendar days after the execution of this Agreement, the Concessionaire shall provide the County a Performance Bond in accordance with **Exhibit B** "Performance Bond for MAG" attached to this Agreement in an amount equal to 100% of the Minimum Annual Guarantee (MAG) for the first twelve (12) months of operation of the Concession and shall keep the same in full force and effect and shall renew the same annually for the MAG amount for that year (Year 2 and Year 3, as stated in 3.1, above) and as adjusted to reflect increases in the Consumer Price Index (CPI), for the entire term of this Agreement including any extensions, to ensure the faithful performance of all of the covenants, terms and conditions of this Agreement. Prior to commencement of the Concession, the Concessionaire shall provide the County with a cash deposit, certified check, or an irrevocable letter of credit or other form of security acceptable to the Department and so endorsed as to be readily negotiable by the County, as security for the payments required hereunder, in the amount equal to three months of the Monthly Minimum Annual Guarantee ("Security Deposit"). The amount of the Security Deposit may be adjusted annually to the MAG amount for that year (Year 2 and Year 3, as stated in 3.1, above) and as adjusted to reflect increases in the Consumer Price Index (CPI), for the entire term of this Agreement including any extensions.

- 3.04 GROSS REVENUES:** The term "Gross Revenues", as used in this Agreement, means all monies paid or payable to or consideration of determinable value received by the Concessionaire in the operation under this Agreement, regardless of when or where the order therefore is received, or the goods delivered, or services rendered, whether paid or unpaid, whether on a cash or credit basis or in consideration of any other thing of value; provided, however, that the term "Gross Revenues" shall not include: (i) any refund given to the customer because of a customer satisfaction issue which must be documented and

auditable, (ii) promotional discount and coupon offers issued to customers as a result of a Departmental approved marketing plan, and (iii) any taxes imposed by law which are paid by a customer and directly payable by the Concessionaire to a taxing authority.

- 3.05 TAXES:** The Concessionaire shall be solely responsible for the payment of all sales, use or other taxes, levied upon the fees and other charges payable by Concessionaire to Department hereunder, whether or not the same shall have been billed or collected by Department, together with any and all interest and penalties levied thereon, and Concessionaire hereby agrees to indemnify Department and hold it harmless from and against all claims by any taxing authority that the amounts, if any, collected from Concessionaire and remitted to the taxing authority by Department, or the amounts, if any, paid directly by Concessionaire to such taxing authority, were less than the total amount of taxes due, and for any sums including interests and penalties payable by Department as a result thereof. The provisions of this paragraph shall survive the expiration or prior termination of this Agreement.
- 3.06 REPORTS OF GROSS REVENUE:** On or before the 10th day following the end of each month throughout the term of this Agreement, or any extension hereof, the Concessionaire shall furnish to the Department, a Statement of Monthly Gross Revenues, **Exhibit E** "Monthly Report of Gross Revenues". The report shall enumerate each Location under this Agreement, together with the Monthly Percentage Fee to the County payments due in Section 3.02 "Percentage Fee to the County". The Concessionaire shall certify as to the accuracy of such Gross Revenues in such form as shall be prescribed by the Department. The Department may modify from time to time, the form of reporting. The statement must be signed by an officer (if Concessionaire is a corporation), a partner (if a partnership), or the owner (if a sole proprietorship) and identify all receipts derived by Concessionaire during such month. Failure to comply within ten (10) calendar days will result in a late fee of \$50 per day.
- 3.07 LATE PAYMENT:** In the event the Concessionaire fails to make any payments as required to be paid under the provisions of this Agreement within ten (10) calendar days of the due date, interest at the rates established from time to time by the Board of County Commissioners of Dade County, Florida (currently set as 1½% per month) shall accrue against all such delinquent payment(s) from the original due date until the Department actually receives payment. The right of the County to require payments of such interest and the obligation of the Concessionaire to pay same shall be in addition to and not in lieu of the right of the County to enforce other provisions herein, including termination of this Agreement, or to pursue other remedies provided by law. Additionally, the Department will begin to draw down from the Security Deposit any unpaid Payments due to the Department, as stated in 3.01, "Minimum Annual Guarantee" and 3.02 Percentage Fee to the County, above, in the event that the Concessionaire is more than ten days late in meeting Payment requirements to MDAD. Thereafter, the Concessionaire will have 20 additional days to replenish any amount that was drawn down from that Security Deposit and to repay any delinquent Payment amounts due the Department. If the Concessionaire

does not replenish the entire amount (repayment of Security Deposit and the MAG and Percentage Fees that are due) within the twenty-day period, a letter advising termination for default will be forwarded to the Concessionaire in accordance with paragraph 11.02 "Payment Default".

If the Concessionaire is late with Payments to the County more than two times within a twelve (12) month period, any subsequent Late Payment will constitute a Cause for Default, unless the Department determines that there was adequate reason for the delay. In this instance the Concessionaire must present to the Department, prior to the due date of the Payment, a letter advising the Department for the reason of the delay in Payment.

3.08 DISHONORED CHECK OR DRAFT: In the event the Concessionaire delivers a dishonored check or draft to the County in payment of any obligation arising under this Agreement, the Concessionaire shall incur and pay a service fee of TWENTY-FIVE DOLLARS, if the face value of the dishonored check or draft is \$50.00 or less; THIRTY DOLLARS if the face value of the dishonored check or draft is more than \$50.00 and less than \$300.00; or FORTY DOLLARS, if the face value of the dishonored check is \$300.00 or more, or five percent of the face value of such dishonored check or draft, whichever is greater, plus penalties imposed by law (F.S.832.08 and F.S. 125.0105). Further, in such event, the Department may require that future payments required pursuant to this Agreement be made by cashier's checks or other means acceptable to the Department.

3.09 ADDRESS FOR PAYMENTS: The Concessionaire shall pay all monies payable, as required by this Agreement, to the following:

In Person: Miami-Dade Aviation Department
Finance Division
4200 N.W. 36th Street
Building 5A, Suite 300
During normal business hours, 8:00 A.M. to 5:00 P.M Monday through Friday

By Mail: Miami-Dade Aviation Department
Finance Division
P.O. Box 592616
Miami, Florida 33159

By Express Mail: Miami-Dade Aviation Department
Finance Division
4200 N.W. 36th Street
Building 5A, Suite 300
Miami, Florida 33122

By Wire Transfer: In accordance with Wire transfer instructions provided by MDAD's Finance Division, 305-876-7383.

3.10 REVENUE CONTROL PROCEDURES: Notwithstanding anything to the contrary contained herein, the Concessionaire shall comply with such revenue control procedures as may be established from time to time by the Department.

3.11 ANNUAL AUDIT: Within ninety (90) days of each anniversary of the Effective Date of this Agreement and within sixty days following termination of this Agreement, the Concessionaire shall, at its sole cost and expense, provide to the Department on an annual basis, an audited report of Monthly Gross Revenues, and Percentage Fees separately stating DBE revenues and expenses, containing an opinion, prepared and attested to by an independent certified public accounting firm, licensed in the State of Florida. The audited report, as detailed in **Exhibit D** "Audit Report", shall include a schedule of Monthly Gross Revenues and Percentage Fees paid to the County under this Agreement, prepared in accordance with Generally Accepted Auditing Standards. The report shall also be accompanied by a management letter, which will contain the findings discovered during the course of the examination, such as recommendations to improve accounting procedures, revenue and internal controls, as well as significant matters under this Agreement. In addition, the audit shall also include comprehensive compliance procedures to determine whether the books of accounts, records and reports were kept in accordance with the terms of this Agreement for the period of examination and submit such reports in a separate letter. Each audit and examination shall cover the period of this Agreement. The last such report shall include the last day of operations. There shall be no changes in the scope of the reports and letters required hereunder without the specific prior written approval of the Department.

If such schedules indicate that the Percentage Fees for such Agreement Period have been underpaid, then the Concessionaire shall submit payment thereof to the Department at the Finance Office, the statements required under this section, together with interest on any underpaid Percentage Fees at the rate set forth in Section 3.07 "Late Payment" from the date such fees or charges should have been paid.

3.12 RIGHT TO AUDIT/INSPECT: The Department and the auditors of the County shall have the right, without limitation, at any time during normal working hours, to enter into any Locations, in connection with its operations pursuant to this Agreement, to: (1) verify, check and record data used in connection with operation of this Agreement; (2) inspect, review, verify and check all or any portion(s) of the procedures of the Concessionaire for recording or compiling Gross Revenues information and (3) audit, check, inspect and review all books of account, records, financial reports, financial statements, operating statements, inventory records, and State sales tax returns, and work papers relating to the operation of this Agreement, and other pertinent information as may be determined to be needed or desirable by the Department.

The Department shall further have the right, upon reasonable written notice to Concessionaire at the sole cost of Department except as specified below, to examine or designate a representative to examine the books and records of Concessionaire, which relate to its operations to determine the correctness of the Percentage Fees paid by

Concessionaire to Department for any or all of any Agreement Periods immediately preceding such examination. If, as a result of such examination, it is established that the Percentage Fees for any Agreement Period have been underpaid to Department, Concessionaire shall forthwith, upon written demand from the Department, pay the difference to Department, together with interest thereon at the rate set forth in Section 3.07 "Late Payment" from the date such amount or amounts should have been paid.

Further, if such examination establishes that Concessionaire has underpaid Percentage Fees for any Agreement Period by three percent (3%) or more, then the entire expense of such examination shall be borne by Concessionaire.

In the event of any conflict between any provisions of this Agreement and Generally Accepted Accounting Principles or Generally Accepted Auditing Standards, the provisions of this Agreement shall control even where this Agreement references such principles or standards. In particular, without limitation, Concessionaire shall maintain all records required under this Agreement to the full extent required hereunder, even if some or all of such records would not be required under such general principals or standards.

3.13 RECORDS AND REPORTS: The Concessionaire shall, at all times during the term hereof, maintain at an office in Miami-Dade County, Florida, complete and accurate books and records of all receipts and disbursements from its operations, in a form consistent with good accounting practices, and shall install only Machines that contain at all times such devices and forms as are necessary to record properly, accurately and completely all Concessionaire's merchandise sales and services from the Machines. The form of all such books of account records and reports shall be subject to the approval of the Department and/or the Auditors of the County (one or more of the following: the designated external auditing firm or other certified public accounting firm selected by the County, the Audit and Management Services Department of the County or Inspector General of the County, or Auditors of the State of Florida) prior to commencement of operations hereunder.

The Concessionaire shall account for all revenues of any nature related to transactions in connection with this Agreement in a manner which segregates in detail those transactions from other transactions of Concessionaire and which supports the amounts reported to the Department in Concessionaire's monthly schedules. At a minimum, the Concessionaire's accounting for such receipts shall include the following:

1. Concessionaire's bank account statements (separate bank accounts shall be maintained for receipts from operations and no receipts from any other source shall be deposited in such accounts);
2. A compiled report of transactions by Locations showing all Gross Revenues and all exclusions from Gross Revenues by category (as set forth in Article 3.04 "Gross Revenues"), which report shall be subtotaled by day and totaled by month. The

monthly total shall correspond with the amounts reported to Department on Concessionaire's monthly "Revenue Reports", and

3. Such other records, if any, which would normally be examined by an independent certified public accountant in performing an examination of Concessionaire's Gross Revenues in accordance with Generally Accepted Auditing Standards and the provisions of this Agreement.

Such records may be in the form of (a) electronic media compatible with the computers available to the Department, or (b) a computer run hard copy. The Department may require other records necessary in its determination to enable the accurate audit of Concessionaire's Gross Revenues hereunder. Upon five (5) business days written notice from the Department, all such books and records, including the general ledger and bank statements and all federal, state and local tax returns relating to Concessionaire's sales, shall be made available, at the offices of the Department, for inspection by Department through its duly authorized representatives, at any time, for up to three (3) years subsequent to final termination of this Agreement Period to which such books and records relate (and Concessionaire shall not be obligated to retain such books and records subsequent to the termination of such three (3) year period).

- 3.14 ADDITIONAL REPORTS:** The Concessionaire will be required to provide electronic record of all transactions by location, by machine, for accounting and auditing purposes. The Prepaid Phone Card Vending Machines must generate printed revenue reports as requested by the Department. The Concessionaire has a continuing responsibility to provide a certificate (prior to beginning operations and in the event of any updates to the Machine require notice to the County) from the manufacturer of the Machine verifying that the revenue mechanism creating the reports is tamperproof.

Any evidence of tampering may lead to termination of this Agreement. Only a certified company technician may have access to the accounting system and must notify the Department before servicing or repairing any part of the Machine that produces access to the accounting system. A copy of transaction report or similar information will need to be submitted with the Concessionaire's monthly payment for verification. The Department will have the right to inspect the Machines and to audit the Concessionaire at any time.

- 3.15 ADDITIONAL SUMS DUE:** If the Department has paid any sum or has incurred any obligation or expense on behalf of the Concessionaire, which Concessionaire has agreed to pay or reimburse Department, or if Department is required or elects to pay any sum or incur any obligation or expense because of the failure, neglect or refusal of Concessionaire to perform or fulfill any of the terms or conditions of this Agreement, then the same shall be deemed additional sums due.

- 3.16 UTILITIES:** The cost of all utilities used or consumed at the locations shall be borne by the Concessionaire. Unless the Locations are provided with separate electric meters, the Concessionaire agrees to pay for such utilities in the Locations as a monthly charge upon

billing by the Department, or utility companies. If billed by the Department, the Department at its sole discretion, will base this monthly charge on (i) a survey of consumption by the Department and current non-discriminatory rates charged others in the Terminal Building or (ii) at the option and expense of the Concessionaire on actual usage measured by temporary meters, arranged and paid for by the Concessionaire. This monthly charge may also be adjusted on a non-discriminatory basis and billed retroactively from time to time based on changes in consumption and rates. Concessionaire hereby agrees to pay the same within thirty days after it has received Department's invoice thereof. The County shall have no obligation to provide utilities to the Locations listed in Section 1.04 and listed on **Exhibit A**, "Phone Card Machines Locations List".

3.17 NO NEGOTIATIONS: The Concessionaire understands and agrees, as a condition precedent to the County's consideration of the bid, that the terms and conditions herein are not subject to negotiation or adjustment for any reason, including, but not necessarily limited to, airport construction, airline relocation, airline bankruptcies, change in airline service, and the like, nor shall the County be liable for any reduction in sales or disruptions or delays caused in whole or in part by any of the foregoing, except in the event of an act of God, at any time during the term of this Agreement, including any extensions.

3.18 OTHER REPORTS: The Concessionaire shall provide the Department with financial data and operating statistics in a format and frequency specified by the Department.

3.19 LIQUIDATED DAMAGES

The Department has instituted performance standards that are linked to Liquidated Damages, in the event the Concessionaire does not perform in the prescribed manner; as further described below:

<u>Violation</u>	<u>Liquidated Damage per occurrence</u>
Moving Machine without written approval from the Department	\$100 per machine
MDAD Identification Label Not on Machine	\$100 per machine
Failure to provide required pricing Information on Machine	\$100 per machine
Failure to provide required information on Card	\$100
Hidden Fees, surcharges on Cards etc.	\$100
Repeated Occurrences of "Busy" Customer Service 800 Numbers	\$100
Collection of monies from Machines made at unscheduled times	\$100 per machine
Violation of Permitted Use of a Location	\$100
Failure to Submit Required Documents and Reports	\$ 50
Unauthorized Advertising	\$ 50
Failure to maintain Location clean	\$ 50
Installation of Unapproved Items in Locations	\$ 50

Failure to Maintain "Customer Service" Required Hours of Operation \$ 25

The exact monetary value of said Damages caused by Concessionaire's failure to perform is extremely difficult and impractical to fix; therefore the Concessionaire agrees that the above stated sums represent fair and reasonable estimates of such monetary value of such damages.

ARTICLE 4 – STANDARDS OF SERVICE

4.01 **OPERATING REQUIREMENTS:** In addition to the requirements established in the Scope of Services (currently, Section 3 of the ITB), the Concessionaire must comply with all operating requirements as set by the Department. The Operating Requirements may be changed from time to time in order to maintain an appropriate business environment.

4.02 **MANAGEMENT AND PERSONNEL:**

A. **PERSONNEL**

- 1) Personnel: The Concessionaire shall maintain sufficient staff during the term of this Agreement of sufficient size, expertise and experience to manage the operations.
- 2) Project Manager: Concessionaire shall provide an individual who shall be the Concessionaire's Project Manager who will be responsible for all Operations of this Concession, and shall provide all required reports, updates and other related material and data to the County's Project Manager.
- 3) Management Responsibilities: In its capacity as the Concessionaire under this Agreement, and not as an agent of the Department, Concessionaire shall manage the Locations in accordance with this Agreement, in furtherance of which Concessionaire shall, among other things, (i) visit each Location daily to monitor compliance with this Agreement; (ii) use reasonable efforts to remedy problems and issues raised by Airport patrons with respect to the operation of the Prepaid Phone Card Machines, answer in writing all written customer complaints within seven (7) calendar days after receipt thereof and furnish a copy of the complaint and said answer to the Department within said ten day period; and (iii) promptly furnish the Department with copies of all written notices received by Concessionaire from any governmental authority with respect to the Locations.

B) **TRAINING**

The Concessionaire shall submit a copy of its employee customer Service Training Program within 30 calendar days of the Effective Date of this Agreement. In addition, the Concessionaire shall annually hereafter establish a training program for its employees and shall submit a summary report of the training areas covered and number of participants in the following areas:

Customer service

Greeting customers
Answering questions
Handling complaints
Product knowledge
Prices

ARTICLE 5 – SERVICES

DEPARTMENT SERVICES:

A. Department's Maintenance Obligation: The Department shall clean, maintain and operate in good condition the Terminal Building, not including the Concessionaire's Locations. This obligation includes, but is not limited to, structural and system repairs, maintenance of main electrical and mechanical systems, maintenance of walls and ceilings, and repair/maintenance of the roof. The Department shall maintain the public areas in the Terminal Building furnished and will provide adequate light, cold water and conditioned air. The Department agrees to make all necessary structural repairs to the Locations, at its own expense; provided, however, that for purposes of this Agreement such structural repairs shall not include any repairs to any equipment installed by Concessionaire, and further provided that Concessionaire shall reimburse Department, within ten (10) calendar days of receipt of written demand for such reimbursement, for the cost and expense of all structural repairs required as a result of the negligent or intentional acts of Concessionaire, its officers, partners, employees, agents, contractors, subcontractors, licensees or invitees. Concessionaire shall give the Department written notice describing any repair, which is the responsibility of the Department and the Department shall commence the repair process promptly after its receipt of such written notice if the Department agrees that such repair is required and is the Department's responsibility hereunder.

All new services, extensions, and/or relocations of existing utilities in order to properly meet the Concessionaire's operational needs shall meet all code requirements and such services, extensions and/or relocations shall be provided by the Concessionaire, at the Concessionaire's expense.

- B. No Other Obligation of Department: The Concessionaire acknowledges that the Department has made no representations or warranties concerning the suitability of the Locations for the Concessionaire's use or for any other use, and that except as expressly provided in this Agreement, the Department shall have no obligations whatsoever to repair, maintain, renovate or otherwise incur any cost or expense with respect to the Locations or the prepaid phone card vending machines.
1. Concessionaire hereby confirms that it has made its own investigation of all the costs of doing business under this Agreement, including the costs of installing and permitting electrical outlets and equipment needed to operate from the Locations hereunder, that it has done its own projections of the volume of business it expects

to generate in operating from the Locations hereunder, that it is relying on its own business judgment concerning its prospects for operating on the Locations under this Agreement on a profitable basis, and that Department has not made any representations or warranties with respect to any such matters.

2. The Department does not warrant the accuracy of any statistics or projections relating to the Airport and its operations, which have been provided to Concessionaire by the Department or anyone on its behalf and the Department shall not be responsible for any inaccuracies in such statistics or their interpretation.
3. All statements contained in this Agreement or otherwise made by Department or anyone on its behalf concerning any measurement relating to the Locations or any other area of the Airport are approximate only, and any inaccuracy in such statements of measurements shall not give rise to any claim by Concessionaire under or in connection with this Agreement.
4. The Department shall not be liable to Concessionaire for any loss of business or damages sustained by Concessionaire as a result of any change in the operation or configuration of, or any change in any procedure governing the use of, the construction improvements of the Terminal Building,

ARTICLE 6-EQUIPMENT

- 6.01 EQUIPMENT:** Any equipment installed in the Locations by the Concessionaire must be approved in advance by the Department and comply with the requirements in the Scope of Services, Appendix A. Any such equipment installed by the Concessionaire as personal property of the Concessionaire, shall, except as provided in Section 6.03(B) "Disposal of Equipment", be removed from the Locations upon the termination or expiration of this Agreement, in accordance with Sections 6.03 "Disposal of Equipment", and 16.02 "Removal of Personal Property".
- 6.02 AMERICANS WITH DISABILITIES ACT REQUIREMENTS:** The Concessionaire will be responsible, at its cost, for ensuring that the Locations and the Machines, and all functions it performs therein as part of the Concession, conform in all respects to the requirements of the Americans with Disabilities Act (the "ADA"), including without limitation, the accessibility guidelines promulgated pursuant thereto. The ADA imposes obligation on both public entities, like the Department and those private entities that offer services for the convenience of users of the public entities' facilities. In some circumstances, the public entity must ensure that the operations of the private entity comply with the public entity's ADA obligations. In most cases the ADA obligations of the Department and the Concessionaire will be the same. However, the Department reserves the right to require the Concessionaire to modify its operations or its physical facilities to comply with the Department's ADA obligations with respect to the Concession, as the Department in its sole discretion deems reasonably necessary.

6.03 DISPOSAL OF EQUIPMENT: At least 30 calendar days prior to the expiration of this Agreement, or upon termination or cancellation by mutual agreement or pursuant to Articles 11 "Termination by County" or Article 12 "Claims and Termination by Concessionaire" hereof, the County shall exercise, at its sole discretion, one of the following options as to any equipment installed in the Locations by the Concessionaire:

- (A) Require the Concessionaire to remove such equipment from the Locations; or
- (B) Retain any portion of the equipment of the Concessionaire (personal property) provided however, the County shall have no right to use or display any proprietary signs or logos (e.g. brand names owned by, or licensed or franchised to Concessionaire).

ARTICLE 7 – MAINTENANCE

7.01 CLEANING: The Concessionaire shall, at its cost and expense, keep the Locations and Prepaid Phone Card Machines clean, neat, orderly, sanitary and presentable at all times. If the Locations and/or the Prepaid Phone Card Machines are not kept clean in the opinion of the Department, the Concessionaire will be so advised and shall take immediate corrective action.

7.02 REMOVAL OF TRASH: The Concessionaire shall clean the area as stated in 1.04 - "Locations" and remove any trash in the Location area, at its cost and expense.

The Department reserves the right to back charge the Concessionaire for waste disposal, either indirectly through rental rates or directly by a Department generated bill for actual usage.

7.03 MAINTENANCE AND REPAIR: The Concessionaire shall maintain and repair the Locations. Such maintenance and repairs shall include, but not be limited to, painting wall, painting columns, and repair floors, which repairs shall be in quality and class equal to or better than the original work to preserve the same in good order and condition. Maintenance for all Prepaid Phone Card Machines furnished by the Concessionaire specifically as a result of their operation shall remain with the Concessionaire. The Concessionaire shall repair, at or before the end of the term of this Agreement, all injury done by the installation or removal of the Prepaid Phone Card Machines and/or any other personal property so as to restore the Locations to the state they were at the commencement of this Agreement, reasonable wear and tear excluded. Department may, at any time without notice, examine the Locations to determine if maintenance is being performed satisfactorily. If it is determined that said maintenance is not satisfactory, the Department shall so notify Concessionaire in writing. If said maintenance is not performed by Concessionaire to the satisfaction of the Department within seven (7) days after receipt of such written notice, Department shall have the right to perform such maintenance.

7.04 FAILURE TO MAINTAIN: Upon failure of the Concessionaire to maintain the Locations as provided in this Article 7, the Department may perform all cleaning, maintenance and repairs which may be necessary and the cost thereof plus 25% for administrative costs, shall be billed to and paid by the Concessionaire.

Failure to pay said costs upon billing by the Department will cause this Agreement to be in default as stated in Section 11.02.

ARTICLE 8 – ASSIGNMENT AND OWNERSHIP

8.01 NO ASSIGNMENT: The Concessionaire shall not assign, transfer, pledge or otherwise encumber this Agreement nor shall the Concessionaire allow others to use the Locations, without the prior written consent of the Department.

8.02 OWNERSHIP OF THE CONCESSIONAIRE: Since the ownership, control, and experience of the Concessionaire were material considerations to the County in the award of this Concession and the entering into of this Agreement, the Concessionaire shall take no actions which shall serve to transfer or, sell majority ownership, change the management, or control of the business entity of the Concessionaire without the prior written consent of the Department.

8.03 CHANGE OF CONTROL: If Concessionaire is a corporation, the issuance or sale, transfer or other disposition of a sufficient number of shares of stock in the Concessionaire to result in a change of control of Concessionaire shall be deemed an assignment of this Agreement for purposes of this Article 8. If the Concessionaire is a partnership, transfer of any interest in the partnership, which results in a change in control of such Concessionaire, shall be deemed an assignment of this Agreement for purposes of this Article 8.

ARTICLE 9 – INDEMNIFICATION

INDEMNIFICATION: The Concessionaire shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorney's fees and cost of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Concessionaire or its employees, agents, servants, partners, or principles. The Concessionaire shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Concessionaire expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Concessionaire shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

ARTICLE 10 – INSURANCE

INSURANCE REQUIRED OF CONCESSIONAIRE: Prior to execution of this Agreement by the County and commencement of this Agreement, the Concessionaire shall obtain all insurance required under this Section and submit it to Miami-Dade Aviation Department, c/o Risk Management, P.O. Box 59-2075, Miami, Florida 33159-2075 for approval. All insurance shall be maintained throughout the term of this Agreement.

(A) **Public Liability Insurance** on a comprehensive basis, including contractual liability, products, and completed operations, in an amount not less than \$300,000 combined single limit, per occurrence for bodily injury and property damage. Miami-Dade County must be an Additional Insured with respect to this coverage.

(B) **Automobile Liability Insurance** coverage on all owned, non-owned and hired vehicles used in connection with this Agreement in amounts not less than \$300,000* combined single limit per occurrence for bodily injury and property damage.

Under no circumstances is the Concessionaire allowed on the Airside Operation Area (AOA) without increasing automobile coverage to \$5,000,000 as approved by the Department's Risk Management Office.

The insurance coverage required shall include those classifications, as listed in the standard liability manuals, which most nearly reflect the operations of the Concessionaire in this Agreement. All insurance policies required herein shall be issued by companies authorized to do business under the Laws of the State of Florida. The companies must be rated no less than "B" as to management, and no less than "V" as to strength in accordance with the latest edition of "Best's Insurance Guide", published by A.M. Best Company, Inc., or its equivalent as approved by Miami-Dade County Risk Management Division.

Prior to the commencement of operations hereunder, and annually thereafter, the Concessionaire shall furnish certificates of insurance to Miami-Dade Aviation Department, Risk Management, which certificates shall clearly indicate: (1) that the Concessionaire has obtained insurance in the type, amount and classifications as required for strict compliance with this Section; and (2) that Miami-Dade County is named as an Additional Insured with respect to the Public Liability coverage.

The County reserves the right to require the Concessionaire to provide such reasonably amended insurance coverage as it deems necessary or desirable upon issuance of notice in writing to the Concessionaire, which notice shall automatically amend this Agreement effective thirty days after such notice.

Compliance with the foregoing requirements shall not relieve the Concessionaire of its liability under any other portion of this Agreement.

ARTICLE 11 – TERMINATION BY COUNTY

- 11.01 TERMINATION FOR ABANDONMENT:** This Agreement shall be automatically terminated in its entirety upon the abandonment by the Concessionaire of the Locations or the voluntary discontinuance of operations at the Airport for any period of time exceeding 24 hours, unless such abandonment or discontinuance has been caused by civil disturbance, governmental order or Act of God that prevents the Concessionaire's use of the Locations for the purposes authorized in Article 2.
- 11.02 PAYMENT DEFAULT:** Failure of the Concessionaire to make MAG payments and Fees and charges required to be paid herein when due shall constitute a default, and the County may, at its option, terminate this Agreement after five (5) calendar days notice in writing to the Concessionaire unless the default is cured within the notice period.
- 11.03 OTHER DEFAULTS:** The County shall have the right, upon thirty (30) calendar days written notice to the Concessionaire to terminate this Agreement upon the occurrence of any one or more of the following unless the same shall have been corrected within such period:
- (A) Failure of the Concessionaire to comply with covenants of this Agreement other than those that constitute default pursuant to Section 11.02 "Payment Default".
 - (B) The conduct of any business, the performance of any service, or the merchandising of any product or service not specifically authorized herein.

ARTICLE 12 – CLAIMS AND TERMINATION BY CONCESSIONAIRE

- 12.01 ADMINISTRATIVE CLAIM PROCEDURES:** If the Concessionaire has any claim against the County arising under this Agreement, it will be made in writing within ten (10) days of the occurrence of the event to the Aviation Director. The exact nature of the claim, including sufficient detail to identify the basis for the claim and the amount of the claim shall be clearly stated. The dispute will be decided by the Aviation Director (or designee), who will mail or otherwise furnish a written copy of the decision to the Concessionaire at the address furnished in Section 18.08 "Notices". The decision of the Aviation Director will be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Concessionaire mails or otherwise furnishes to the County a written appeal addressed to the County Manager. The decision of the County Manager, or his duly authorized representative for the determination of such appeals, will be final and conclusive unless within thirty (30) days of the Concessionaire's receipt of such decision, the Concessionaire files an action in a court of competent jurisdiction. In connection with any appeal proceeding under this provision, the Concessionaire shall be afforded an opportunity to be heard and to offer other evidence in support of the appeal. Pending final decision of a dispute hereunder, the Concessionaire shall proceed diligently with the performance of this Agreement and in accordance with the County's decision. Failure to perform in accordance with the decision of the Aviation Director or the County

Manager shall be cause for termination of this Agreement in accordance with Section 11.03 "Other Defaults". The failure of the Concessionaire to comply with this administrative claim procedure shall be cause for a waiver of claim and an abandonment of any claim arising out of the event.

12.02 TERMINATION: The Concessionaire shall have the right, upon thirty (30) calendar days written notice to the County to terminate this Agreement, without liability to the County, at any time after the occurrence of one or more of the following events:

- (A) Issuance by any court of competent jurisdiction of any injunction substantially restricting the use of the Airport for airport purposes, and the remaining in force of said injunction for a period of more than ninety calendar days.
- (B) A breach by the County of any of the material terms, covenants or conditions contained in this Agreement required to be kept by the County and failure of the County to remedy such breach for a period of ninety calendar days after receipt of written notice from the Concessionaire of the existence of such breach.
- (C) The assumption by the United States Government or any authorized agency thereof, or any other governmental agency, of the operation, control or use of the airport Locations or any substantial part, or parts thereof, in such a manner as substantially to restrict the Concessionaire's operations for a period of ninety days.

ARTICLE 13 - DISADVANTAGED BUSINESS ENTERPRISES

13.01 DBE REQUIREMENTS: It is the policy of the County that DBE's shall have the maximum practical opportunity to participate in the performance of County agreements. As used in the Bid Documents, the term "Disadvantaged Business Enterprises (DBE)" means a small business concern, which (a) is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it as set forth in 49 CFR Part 23, Subpart F, Code of Federal Regulations. The County established a DBE overall goal of thirty percent (30%) participation for certified DBE's, in connection with this Agreement. The Concessionaire is DBE certified and will achieve 100% DBE participation of the total gross revenues.

13.02 COUNTING DBE PARTICIPATION TOWARD CONTRACT GOALS:

- 1. When a DBE participates in a contract, only the value of the work actually performed by the DBE toward the DBE goal will be counted.
- 2. When a DBE performs as a participant in a joint venture, a portion of the total dollar

value of the contract during the complete contract term, equal to the distinct clearly defined portion of the work of the contract that the DBE performs will be counted toward DBE goals as outlined in Appendix C, of the ITB.

3. Expenditures to a DBE contractor toward DBE goals will be counted only if the DBE is performing a commercially useful function as defined below:
 - (a) A DBE performs a commercially useful function when it is responsible for execution of specific quantifiable work of the contract and is carrying out its responsibilities by actually performing, or managing, or supervising the specific identified work.

MDAD will determine whether a DBE is performing a commercially useful function by evaluating the specific duties outlined in the Joint Venture Agreement; the subcontract agreement or other agreements in accordance with industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and other relevant factors.

- (b) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a financial or other transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.
 - (c) If a DBE does not perform or exercise responsibility for at least their percentage of its participation or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that the DBE is not performing a commercially useful function.
 - (d) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c) of this section, the DBE may present evidence to rebut this presumption. MDAD will determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

4. MDAD's decision on commercially useful function matters are final.

13.03 DBE GOAL ACHIEVED THROUGH JOINT VENTURE ("JV") PARTNERING:

The DBE partner must meet the eligibility standards set forth in 49 CFR Part 23, Subpart F. A "joint venture" or ("JV") shall mean and may be referred to as an "association" of two or more businesses acting as a concessionaire and performing or providing services on a contract, in which each joint venture or association partner combines property, capital, efforts, skill, and/or knowledge. The joint venture agreement must specify the following:

- (1) Each DBE joint venture ("JV") partner must be responsible for a clearly defined portion of the work to be performed. The work should be detailed separately from the work performed by the non-DBE JV partner.

The work should be submitted as part of this solicitation and annually thereafter to the Aviation Department's Minority Affairs Division. The work to be performed by the DBE joint venture partner should be store specific with regards to tasks and locations.

The DBE Joint Venture partner will be required to spend the minimum amount of aggregate time on-site, focused on the operation of the concession. Such "minimum amount of aggregate time" is defined as ten hours per week.

- (2) Each Joint Venture partner must submit the Monthly Utilization Reports (MURs), in addition to the DBE Appendix 4 form, Monthly reports providing details of how the performance objectives were achieved and providing documentation of that achievement on the DBE Appendix 4 form. This information should include, but not be limited to:

- a. Details of training sessions, including class rosters and lesson plans.
- b. Deliverables and work products.
- c. Time sheets of partner employees used to fulfill objectives. Time sheets must accurately reflect hours worked and compensation earned.
- d. Proof that employees of partners actually work for them (payroll, payroll tax returns and the like).

- (3) Each DBE partner must share in the ownership, control, management, and administrative responsibilities, risks and profits of the JV in direct proportion to its stated level of JV participation.

- (4) Each DBE JV partner must perform work that is commensurate with the Lease Agreement.

As described below, each Concessionaire must have submitted, as part of its Bid, a plan for the achievement of the DBE goal, including Schedule of Participation and the Letter of Intent from DBE's who are certified or have applied for Certification to the Miami-Dade County Department of Business Development as required by Disadvantaged Business Enterprise Participation Plan (DBE).

Without limiting the requirements of this Agreement, the County will have the right to review and approve all agreements utilized for the achievement of these goals. Such agreements must be submitted with the Bid.

13.04 CERTIFICATION-DISADVANTAGED BUSINESS ENTERPRISE (DBE): In order to participate as a DBE on this contract, a DBE must be certified or have applied for certification to the Miami-Dade County Department of Business Development (DBD) at the time of Bid submittal.

Application for certification as a DBE may be obtained by contacting the Miami-Dade County Department of Business Development (DBD) located at 111 NW 1st Street, Stephen P. Clark Center, 19th floor, Miami Florida 33128-1974 or by telephone at (305) 375-3111 or facsimile at (305) 375-3160, or visit their website at www.co.miami-dade.fl.us/DBD/.

The DBE Certification List is maintained and published at least every other week by the Department of Business Development (DBD) and contains the names and addresses of currently certified Disadvantaged Business Enterprise (DBEs) certified by them.

13.05 AFFIRMATIVE ACTION AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAMS: The Concessionaire acknowledges that the provisions of 14 CFR Part 152, Affirmative Action Employment Programs, and 49 CFR Part 23, Subpart F, Disadvantaged Business Enterprise Programs, are applicable to the activities of the Concessionaire under the terms of this Agreement, unless exempted by said regulations, and hereby agrees to comply with all requirements of the Department, the Federal Aviation Administration and the U.S. Department of Transportation.

These requirements may include, but not be limited to, the compliance with Disadvantaged Business Enterprise and/or Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports and, if directed by the Department, the contracting of specified percentages of goods and services contracts to Disadvantaged Business Enterprises. In the event it has been determined, in accordance with applicable regulations, that the Concessionaire has defaulted in the requirement to comply with the provisions of this section and fails to comply with the sanctions and/or remedies then prescribed, the County shall have the right, upon written notice to the Concessionaire, to terminate this Agreement, pursuant to Default language referenced in this Agreement.

This Agreement is subject to the requirements of the U.S. Department of Transportation's Regulations, 49 CFR Part 23, Subpart F. The Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any lease and concession agreement covered by 49 CFR Part 23, Subpart F.

The Concessionaire agrees to include the above statements in any subsequent agreements.

13.06 DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION PLAN: The Concessionaire shall contract with those firm(s) as are listed on the Concessionaire's DBE Participation Plan in the Bid documents and approved by the Department, and shall

thereafter neither (i) terminate such DBE firm(s), nor (ii) reduce the scope of the work to be performed, nor (iii) decrease the percentage of participation, nor (iv) decrease the dollar amount of participation by the DBE firm(s) without the prior written authorization of the Department.

The County shall monitor the compliance of the Concessionaire with the requirements of this provision during the term of this Agreement.

The County shall have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records, records of expenditures, contracts between the Concessionaire and the DBE Participant, and other records pertaining to the DBE Participation Plan.

If at any time the County has reason to believe that the Concessionaire are in violation of this provision, the County may, in addition to pursuing any other available legal remedy, impose sanctions which may include, but are not limited to, the termination or cancellation of this Agreement in whole or in part, unless the Concessionaire demonstrates, within a reasonable time, its compliance with the terms of this provision. No such sanction shall be imposed by the County upon the Concessionaire except pursuant to a hearing conducted by the MDAD Compliance Monitor and/or Director.

ARTICLE 14- RULES, REGULATIONS AND PERMITS

14.01 RULES AND REGULATIONS: The Concessionaire shall comply, with the Ordinances of the County including the Rules and Regulations of the Department, Chapter 25, Code of Miami-Dade County, Florida, as the same may be amended from time to time, Operational Directives issued hereunder, all additional laws, statutes, ordinances, regulations and rules of the Federal, State and County Governments, and any and all plans and programs developed in compliance therewith, and any County Administrative orders and resolutions of the Board of County Commissioners which may be applicable to its operations or activities under this Agreement.

14.02 VIOLATIONS OF RULES AND REGULATIONS: The Concessionaire agrees to pay, on behalf of the County any penalty assessment or fine issued against the County, or to defend in the name of the County any claim assessment or civil action, which may be presented or initiated by any agency or officer of the Federal, State or County governments based in whole or substantial part upon a claim or allegation that the Concessionaire, its agents, employees or invitee, have violated any law, ordinance, regulation or rule described in Section 14.01 "Rules and Regulations" or any plan or program developed in compliance therewith. The Concessionaire further agrees that the substance of Sections 14.02 "Violations of Rules and Regulations" and 14.01 "Rules and Regulations" shall be included in every contract and other agreements, which the Concessionaire may enter into related to its operations and activities under this Agreement and that any such contract and other agreement shall specifically provide that

“Miami-Dade County, Florida is a third party beneficiary, of this and related provisions.” This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments, subletting or subleasing.

- 14.03 PERMITS AND LICENSES:** The Concessionaire shall obtain, pay for, and maintain on a current basis, throughout the Term of this Agreement, all permits and licenses as required for its operations hereunder.

ARTICLE 15 – GOVERNING LAWS

- 15.01 GOVERNING LAW - VENUE:** This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The venue of any action on this Agreement shall be laid in Miami-Dade County, Florida and any action to determine the rights or obligations of the parties hereto shall be brought in the courts of the State of Florida.
- 15.02 REGISTERED OFFICE/AGENT JURISDICTION:** The Concessionaire, if a corporation, shall designate a registered office and a registered agent, as required by Section 48.091, Florida Statutes, and such designations to be filed with the Florida Department of State in accordance with Section 607.034, Florida Statutes. If the Concessionaire is a natural person, he and his personal representative hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on the alleged breach of this Agreement.

ARTICLE 16 – ACTIONS AT TERMINATION

- 16.01 SURRENDER OF LOCATIONS:** On or before the termination date of this Agreement, whether by lapse of time or otherwise the Concessionaire shall vacate, quit and surrender the Locations in as good order and condition as the Locations were upon occupancy, reasonable and normal wear and tear excepted.
- 16.02 REMOVAL OF PERSONAL PROPERTY:** On or before the expiration date of this Agreement, except in instances of termination pursuant to Section 11.01 “Termination for Abandonment” in which event the Concessionaire shall be allowed up to five (5) calendar days, and provided that the Concessionaire is current in all the payments required pursuant to this Agreement, the Concessionaire shall remove all of its personal property from the Locations hereunder unless the County has exercised its option to acquire same. Any personal property of the Concessionaire not removed in accordance with this Section may be removed by the Department for storage, at the cost of the Concessionaire. Failure on the part of the Concessionaire to reclaim its personal property within thirty (30) days from the date of termination shall constitute a gratuitous transfer of title thereof to the County for whatever use and disposition is deemed to be in the best interests of the County.

- 16.03 **FAILURE TO VACATE**: In the event the Concessionaire shall refuse or fail to give up, vacate, quit and surrender possession of the Locations hereunder, as provided for herein, it shall be liable for any remedies as provided for in Section 83.06, Florida Statutes.

ARTICLE 17 – TRUST AGREEMENT AND BOND RESOLUTION

- 17.01 **TRUST AGREEMENT**: Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that the provisions of the Amended and Reinstated Trust Agreement, dated as of December 15, 2002, and approved by the Board of County Commissioners in Resolution No. R-1261-02 on November 19, 2002, securing Miami-Dade Aviation Facilities Revenue Bonds, shall prevail and govern in the event of any inconsistency with or ambiguity relating to the terms and conditions of this Agreement, including the rents, fees or charges required herein, and their modification or adjustment. Copies of the Trust Agreement may be examined by the Concessionaire at the offices of the Department during normal working hours.
- 17.02 **ADJUSTMENT OF TERMS AND CONDITIONS**: If at any time during the term of this Agreement, a court of competent jurisdiction shall determine that any of the terms and conditions of this Agreement, including the Minimum Annual Guarantee, rentals, Fees and charges required to be paid hereunder to the County by the Concessionaire or by other concessionaires under other agreements of the County for the lease or use of Locations used for similar purposes, are unjustly discriminatory, the County, shall have the right to modify such terms and conditions and to increase or otherwise adjust the Minimum Annual Guarantee, rentals, Fees and charges required to be paid under this Agreement in such a manner as the County shall determine is necessary and reasonable so that like terms and conditions and the rentals fees and charges payable by the Concessionaire and others shall not thereafter be unjustly, discriminatory to any user of like Locations and shall not result in any Violation of the Trust Agreement and/or Master Resolution or in any deficiency in revenues necessary to comply, with the covenants of the Trust Agreement. In the event the County has modified the terms and conditions of this Agreement, including any adjustment of the rentals, Fees and charges required to be paid to the County, pursuant to this provision, this Agreement shall be amended to incorporate such modification of the terms and conditions, upon the issuance of written notice from the Department to the Concessionaire.
- 17.03 **CONCESSIONAIRE'S RIGHT TO TERMINATE**: In the event the terms and conditions of this Agreement, including the Minimum Annual Guarantee, Fees and charges payable hereunder, have been substantially modified pursuant to Section 17.02 "Adjustment of Terms and Conditions" above, the Concessionaire, at any time within one year following the effective date of such modification, may terminate this Agreement by giving not less than 180 days written notice to the County, without liability by either party to the other.

ARTICLE 18 – OTHER PROVISIONS

- 18.01 PAYMENT OF TAXES:** The Concessionaire shall pay all taxes lawfully assessed against its interests in the Locations and its operations hereunder, provided however, that the Concessionaire shall not be deemed to be in default of its obligations under this Agreement for failure to pay such taxes pending the outcome of any legal proceedings instituted in courts of competent jurisdiction to determine the validity of such taxes. Failure to pay taxes after the ultimate adverse conclusion of such contest shall constitute default, pursuant to Section 11.03 “Other Defaults” hereof.
- 18.02 ALTERATIONS BY CONCESSIONAIRE:** The Concessionaire shall not alter or modify the Locations, without first obtaining written approval from the Department.
- 18.03 RIGHTS TO BE EXERCISED BY DEPARTMENT:** Wherever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.
- 18.04 ADMINISTRATIVE MODIFICATIONS:** It is understood and agreed to, that the Department, upon written notice to the Concessionaire, shall have the right to modify administratively and to revise Articles and the Exhibits to this Agreement, provided however that such revisions shall not have a materially adverse effect on the right of Concessionaire to be reimbursed for costs and expenses incurred on a timely basis or to receive reasonable compensation for its services hereunder. No such revisions shall have a material adverse effect on the security of the Locations of the County. Flexibility to administratively modify this Agreement and exhibits will enable the Department to efficiently, manage and effectively administer the transition period phase of the Master Plan. Administrative modifications made by the Department should lead towards the achievement of the goals and objectives of the program and must not deter progress or deviate from accomplishing the same in a consistent and reasonable manner.
- 18.05 SECURITY:** The Concessionaire acknowledges and accepts full responsibility for the security and protection of the Locations operated herein. The Concessionaire fully understands and acknowledges that any security measures deemed necessary by the Concessionaire for protection of said Locations shall be the sole responsibility of the Concessionaire and shall involve no cost to the County.
- 18.06 RIGHTS OF COUNTY AT AIRPORT:** The County shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and facilities at the Airport. The County shall, in the exercise of such right, be free from any, and all liability to the Concessionaire for business damages occasioned during the making of such repairs, alterations and additions except those occasioned by the sole active negligence of the County its employees, or agents.

18.07 FEDERAL SUBORDINATION: This Agreement shall be subordinate to the provisions of any existing or future agreements between the County and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport. All provisions of this Agreement shall be subordinate to the right of the United States of America to lease or otherwise assume control over the Airport, or any part thereof, during time of war or national emergency for military or naval use and any provisions of this Agreement inconsistent with the provisions of such lease to the United States of America shall be suspended.

18.08 NOTICES: Any notices given under the provisions of this Agreement shall be in writing and shall be hand delivered or sent by Registered or Certified Mail, Return Receipt Requested, to:

To the County:

Director
Miami-Dade Aviation Department
Post Office Box 592075
Miami, Florida 33159

To the Concessionaire:

Juan Jose Pino
President
Latin American Enterprises, Inc.
1061 E. 23rd Street
Hialeah, FL 33103

18.09 SEVERABILITY: If any provision(s) of this Agreement or the application thereof to either party to this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provision(s) of this Agreement which can be given effect without the invalid provision, and to this end, the provision(s) of this Agreement shall be severable.

18.10 RIGHTS RESERVED TO COUNTY: All rights not specifically granted the Concessionaire by this Agreement are reserved to the County.

18.11 LIEN: The County shall have a lien upon all personal property of the Concessionaire in the Locations to secure the payment to the County of any unpaid monies accruing to the County under the terms of this Agreement.

18.12 AUTHORIZED USES ONLY: The Concessionaire shall not use or permit the use of the Locations or the Airport for any illegal or unauthorized purpose or for any purpose which would increase the premium rates paid by the County on or invalidate any insurance

policies of the County or any policies of insurance written on behalf of the Concessionaire under this Agreement.

- 18.13 NO WAIVER:** There shall be no waiver of the right of the County to demand strict performance of any of the provision(s), terms and covenants of this Agreement nor shall there be any waiver of any breach, default or non-performance hereof by the Concessionaire unless such waiver is explicitly made in writing by the Department. Any previous waiver or course of dealing shall not affect the right of the County to demand strict performance of the provision(s), terms and covenants of this Agreement with performance hereof by the Concessionaire.
- 18.14 RIGHT TO REGULATE:** Nothing in this Agreement shall be construed to waive or limit the governmental authority of the County, as a political subdivision of the State of Florida, to regulate the Concessionaire or its operations.
- 18.15 INSPECTIONS:** The authorized employees and representatives of the County and of any applicable Federal or State agency having jurisdiction hereof shall have the right of access to the Locations at all reasonable times for the purposes of inspection to determine compliance with the provisions of this Agreement. The right of inspection shall impose no duty on the County to inspect and shall impart no liability on the County should it not make such inspections.
- 18.16 INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL REVIEW:** Pursuant to Miami-Dade County Administrative Order 3-20 and in connection with this Agreement, the County has the right to retain the services of an Independent Private Sector Inspector General ("IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Concessionaire shall make available, to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement, for inspection and copying. The County will be responsible for the payment of these IPSIG services, and under no circumstance shall the Concessionaire's cost/price for this Agreement be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Concessionaire, its officers, agents, employees and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct, audit or investigate the operations, activities and performance of the Concessionaire in connection with this Agreement. The terms of this provision are neither intended nor shall they be construed to impose any liability on the County by the Concessionaire or third party.
- 18.17 MIAMI-DADE COUNTY INSPECTOR GENERAL REVIEW:** According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit of any Contract issued, shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total proposed amount. The audit cost will be deducted by

the County from progress payments to the contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. *Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.*

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above.

- 18.18 RADON DISCLOSURE:** In accordance with Section 404.056, Florida Statutes, the following disclosure is hereby made: "Radon Gas: Radon is a naturally occurring radioactive gas. When accumulated in a building in sufficient quantities, it may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."
- 18.19 TRADEMARKS AND LICENSES:** The County may from time to time, require the Concessionaire, to utilize certain patents, copyrights, trademarks, trade names, logos, computer software and other intellectual property owned by the County, in the performance of this Agreement, which patents, copyrights, trademarks, trade names, logos, computer software and intellectual property may have been created pursuant to the terms of this Agreement. Such permission, when granted, shall be evidenced by a nonexclusive license executed by, the Concessionaire and the Department, on behalf of the County granting the Concessionaire the right, license and privilege to use a specific patent, copyright, trademark, trade name, logo, computer software or other intellectual property, and the Department reserves the right to require payment of fees therefore. Failure of the parties to execute a formal license agreement shall not vest title or interest in such patent, copyright, trademark, trade name, logo computer software or intellectual property in the using party.
- 18.20 DESTRUCTION OF LOCATIONS:** In the event the Locations shall be destroyed or so damaged or injured by fire, windstorm, flood or other casualty during the life of this Agreement, the Locations or any portion thereof are rendered untenable, the County shall have the right, but not the obligation, to render said Locations or damaged portion

thereof tenantable by repairs completed within a reasonable period of time.

- (A) Total Destruction: If the Locations are destroyed or damaged in their entirety, the Concessionaire shall be so notified in writing by the Department, and this Agreement shall be deemed terminated as of the date of the casualty, with the Concessionaire being liable only for payment of rentals on a prorata basis as to whatever portion of the Locations which were tenantable and used by the Concessionaire following the casualty. In such event the Department shall endeavor to find adequate replacement Locations for the Concessionaire in existing facilities on the Airport.
- (B) If the damaged portion of the Location(s) is not rendered tenantable by the County within a reasonable period of time, and the Concessionaire shall determine that: 1) the loss of the damaged portion of the Location(s) shall have a materially adverse impact on the ability of the Concessionaire to utilize the Location(s) for the purposes described in Article 2; or 2) would require the Concessionaire to obtain other space in order to substantially conduct the operations of the Concessionaire originally conducted within the Location(s), then, in either such event, upon written notice to the County, the Concessionaire may cancel this Agreement as of a date which shall be not later than one year from the giving of such notice, if the repairs are not completed within 90 days following such written notice of intent to cancel, or if the repairs cannot be reasonably completed within such 90-day period the County has not commenced repairs within such time. In the event of cancellation, the rent for the untenable portion of the Locations shall be paid only to the date of such fire, windstorm, flood, or other casualty. If this Agreement is not cancelled following any such casualty the rent shall be abated as to the portion of the Locations rendered untenable.

The remedies provided to Concessionaire in this Section 18.20 "Destruction of Locations" are exclusive, and Concessionaire shall be entitled to no other remedies in the event of a complete or partial destruction of or damage to the Locations.

- 18.21 HEADINGS:** The headings of the various Articles and Sections of this Agreement, and its Table of Contents are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.
- 18.22 BINDING EFFECT:** The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. This provision shall not constitute a waiver of any conditions prohibiting assignment or subletting.
- 18.23 SUBCONTRACTORS:** If the Concessionaire will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Agreement will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Concessionaire; and the Concessionaire will not be in any manner

thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Concessionaire. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Concessionaire.

The Concessionaire, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services that the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Concessionaire not to award any subcontract to a person, firm or corporation disapproved by the County.

Before entering into any subcontract hereunder, the Concessionaire will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.

In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type, which are required under this Agreement.

The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Concessionaire's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County and County's proprietary and confidential information. Concessionaire shall furnish to the County copies of all subcontracts between Concessionaire and Subcontractors and suppliers hereunder. Within each such subcontract there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the County finds the Concessionaire in breach of its obligations, and the option to pay the Subcontractor directly for the performance by such Subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any Subcontractor hereunder as more fully described herein.

ARTICLE 19 - WAIVER OF CLAIMS

Concessionaire hereby waives any and all claims it now has or may hereafter have against the County and Department, and against any member, including, without limitation, all members of the Board of County Commissioners, officers, agents or employees of each, for any loss of anticipated profits caused by any suit or proceeding attacking directly or

indirectly the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null and void or voidable, or delaying the same or any part thereof from being carried out. Concessionaire hereby further waives any and all claims for compensation for any and all loss or damage sustained by reason of any delay in making the Locations available to Concessionaire or by reason of any defects or deficiencies in the Locations or in the Terminal Building including any defect or deficiency in the Locations or in the Terminal Building which substantially impedes Concessionaire's ability to operate its Concession at the Locations or because of any interruption in any of the services thereto, including, but not limited to, power, telephone, heating, air conditioning or water supply systems, drainage or sewage systems, and Concessionaire hereby expressly releases the County and Department from any and all demands, claims, actions, and causes of action arising from any of such causes.

ARTICLE 20 - REQUIRED GENERAL AND MISCELLANEOUS PROVISIONS

20.01 AGREEMENTS WITH STATE OF FLORIDA AND MIAMI-DADE COUNTY:

This Agreement shall be subject to all restrictions of record affecting the Airport and the use thereof, all federal, state, county laws, and regulations affecting the same, and shall be subject and subordinate to the provisions of any and all existing agreements between the Department, or the State of Florida, or their boards, agencies or commissions, and to any future agreement between or among the foregoing relative to the operation or maintenance of the Airport, the execution of which may be required as a condition precedent to the expenditure of federal, state, county funds for the development of the Airport, or any part thereof. All provisions hereof shall be subordinate to the right of the United States to occupy or use the Airport, or any part thereof, during time of war or national emergency.

20.02 RIGHT TO AMEND: In the event that the Federal Aviation Administration or its successors requires modifications or changes in this Agreement as a condition precedent to the granting of its approval or to the obtaining of funds for improvements at the Airport, Concessionaire hereby consents to any and all such modifications and changes as may be reasonably required, as follows:

Covenants Against Discrimination:

1. Concessionaire on behalf of itself, its successors in interest and its assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Locations or the Airport; (2) that in the installation of any equipment at the Airport and the furnishing or services in connection therewith, no person on the grounds or race, color or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination;

and (3) that Concessionaire shall operate at the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally assisted programs of the Department of Transportation-effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. Likewise, Concessionaire shall comply with laws of the State of Florida, prohibiting discrimination because of race, color, religion, sex, national origin, age, handicap or marital status. Should Concessionaire authorize another person or entity, with Department's prior written consent, to provide services or benefits in or in connection with its rights or obligations under this Agreement, Concessionaire shall obtain from such person or entity a written agreement pursuant to which such person or entity shall, with respect to the services or benefits which it is authorized to provide, undertake for itself the obligations contained in this paragraph. Concessionaire shall furnish the original or a true copy of such agreement to Department.

2. Concessionaire will provide all information and reports required by said Regulations, or by directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Department or the Federal Aviation Administration to be pertinent to ascertain whether there has been compliance with said Regulations and directives. Where any information required of Concessionaire is in the exclusive possession of another who fails or refuses to furnish this information, Concessionaire shall so certify to Department or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.
3. In the event of a breach of any of the above nondiscrimination covenants, Department shall have the right to impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate. Such rights shall include the right to terminate this Agreement and to reenter and repossess the Locations and the improvements thereto, and hold the same as if this Agreement had never been made. The rights granted to Department by the foregoing sentence shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.
4. Concessionaire assures Department that no person shall be excluded on the grounds or race, creed, color, national origin or sex from participating in or receiving the services or benefits of any program or activity covered by Title 14, Code of Federal Regulations, Part 152, Subpart E, Federal Aviation Administration, Nondiscrimination in Airport Aid Program, and that it will be bound by and comply with all other applicable provisions of such Subpart E, as it may be amended from time to time. Concessionaire also assures Department that

it will require its covered sub-organizations to provide assurances to the same effect and provide copies thereof to the Department.

5. Concessionaire further assures Department that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted at or in connection with its operations. Concessionaire also assures Department that it will require its contractors and subcontractors to provide assurances to the same effect and ensure that such assurances are included in contracts and subcontracts at all tiers which are entered into in connection with Concessionaire's operations.
6. a) This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23, Subpart F. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F.

b) Concessionaire agrees to include the above statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements.
7. Department may from time to time be required by the United States Government or one or more of its agencies, to adopt additional or amended provisions including nondiscrimination provisions concerning the use and operation of the Airport, and Concessionaire agrees that it will adopt such requirements as part of this Agreement.

20.03 RIGHT TO MODIFY: The parties hereto covenant and agree that, during the term hereof; this Agreement may be unilaterally modified by the Department, upon advice of its legal counsel, in order to conform to judicial or Federal Trade Commission rulings or opinions. This section shall not preclude Concessionaire from contesting said rulings or opinions, but Concessionaire shall abide by the unilateral change while such a challenge is pending. Except as otherwise specifically provided in this Agreement, this Agreement may not be modified except by a written instrument signed by both parties.

20.04 TAX EXEMPT STATUS OF DEPARTMENT REVENUE BONDS: Concessionaire agrees to comply promptly with any applicable provisions of any federal tax statute, and all regulations or other binding authority promulgated or decided there under, as required to permit the Department's capital expansion projects to be planned and constructed by Department with revenue bonds the interest on which is generally exempt from federal income taxation, other than any applicable individual or corporate alternative minimum taxes (and other than during any period while such revenue bonds are held by a "substantial user" of the projects financed by such revenue bonds or a "related person" to

a “substantial user”), including, without limitation, the execution by Concessionaire and delivery to Department of an election not to claim depreciation or any investment credit with respect to any portion of such capital expansion projects or any other portion of the Airport System.

20.05 REMEDIES: All remedies provided in this Agreement shall be deemed cumulative and additional, and not in lieu of or exclusive of each other or of any other remedy available at law or in equity arising hereunder.

20.06 WARRANTY OF CONCESSIONAIRE AS TO CONFLICTS OF INTEREST: Concessionaire represents and warrants to Department that, except as may be disclosed in an Addendum hereto, no member, officer, employee or agent of Department has any interest, direct or indirect, in the business of Concessionaire to be conducted hereunder, and that no such persons shall have any such interest at any time during the Term hereof.

20.07 REGULATIONS OF DEPARTMENT: The rights and privileges granted to Concessionaire hereunder and the occupancy and use by Concessionaire of the Locations shall at all times be subject to reasonable rules and regulations of Department as the same are now or may hereafter be prescribed through the lawful exercise of its power, including, but not limited to, all applicable provisions of Department’s Policy and Procedures Manual as the same may be amended from time to time.

20.08 NOT USED.

20.09 BIDDERS SINGLE EXECUTION AFFIDAVITS AND CONDITION OF AWARD CERTIFICATES:

The Concessionaire has a continuing responsibility to remain aware of all applicable County Ordinances, update any and all County Affidavits and advise Department Project Manager as may be necessary pursuant to requirements stated therein, throughout the Term of this Agreement as it pertains to (as further covered in Invitation to Bid No. MDAD 02-05):

- Contractor’s Disclosure Affidavit for Miami-Dade County Parts I, II, and III
- Bidders Affidavit on Public Entity Crimes
- Criminal Record Affidavit
- Current in Obligations to the County Affidavit
- Disability Nondiscrimination Certification
- Family Leave Plan Certification
- Domestic Leave Certification
- Delinquent and Currently Due Fees or Taxes Certification
- Drug-Free Work Place Certification
- Code of Business Ethics
- Certification Bidders Affidavit Pertaining to County Ordinance 98-30 Requiring Certain Entities Contracting with the County Demonstrate that their employment and procurement practices do not discriminate against minorities and women
- Miami-Dade County Debarment Disclosure Affidavit pursuant to

74.

Ordinance No. 93-129

False Claims Affidavit

Additional Condition of Award

Telephone Logs

Subcontracting Policies

Listing of Subcontractors/Subconsultants and Suppliers

20.10 AIRFIELD OPERATIONS AREA (AOA) SECURITY

20.10.01 Concessionaire acknowledges and accepts full responsibility for compliance with all applicable rules and regulations of the Transportation Security Administration (TSA), Federal Aviation Administration (FAA) and MDAD as set forth from time to time relating to Concessionaire's use of the Miami International Airport. Concessionaire fully understands and acknowledges that any security measures deemed necessary by the Concessionaire for the protection of jobsite, or equipment and property and access to the AOA through the jobsite shall be the sole responsibility of the Concessionaire and shall involve no additional cost to the Owner. All such security measures by the Concessionaire shall be in accordance with FAR 107 and the Airport Security Plan.

20.10.02 In order to maintain high levels of security at Miami International Airport (MIA), MDAD authorized identification badges will be issued to all Concessionaire employees working in the Security Identification Display Area (SIDA) or any other secured area of the Airport. All such employees will be issued photo identification badges and will be subject to Federal Bureau of Investigation (FBI) fingerprint based criminal background investigation.

20.10.03 The Concessionaire shall be responsible for requesting MDAD to issue identification badges to all employees who Concessionaire requests be authorized access to the SIDA and shall be further responsible for the immediate reporting of all lost or stolen ID badges and the immediate return of the ID badges of all personnel transferred from Airport assignment or terminated from the employ of the Concessionaire or upon final acceptance of the work or termination of this Contract. Concessionaire will be responsible for fees associated with lost and unaccounted badges as well as the fee for fingerprinting and ID issuance.

20.10.04 All employees of the Concessionaire and its Subconsultants who must work within MDAD secured areas at Miami International Airport shall be supplied with MDAD identification badges as specified above, which must be worn at all times while within the secured area. Badges shall be worn on outer garments above the waist so as to be clearly visible in order to distinguish, on sight, employees assigned to a particular Concessionaire. The Security and Safety Division of MDAD shall provide the identification badges to the Concessionaire. Each employee must complete the SIDA training program conducted by MDAD and comply with all other FAA or MDAD requirements as specified by the MDAD at the time of application for the ID badge

75

before an ID badge is issued. At the present time, MDAD Security and Safety ID Section regularly provides SIDA Training.

20.10.05 Ramp Permits will be issued to the Concessionaire authorizing vehicle entrance to the Airfield Operations Area (AOA) through specified Miami-Dade Aviation Department guard gates for the term of any Project. These permits will be issued only for those vehicles (including vehicles of the Subconsultants) that must have access to the site during the performance of the work. These permits will be only issued to company owned vehicles or to company leased vehicles (leased from a commercial leasing company). AOA decals, passes or permits to operate within the AOA will not be issued to privately owned or privately leased vehicles. All vehicles operating within the AOA must have conspicuous company identification signs (minimum of three inch lettering) displayed on both sides of the vehicle.

All vehicles operating within the AOA must be provided with the Automobile Liability Insurance required elsewhere in this Agreement. Proof of such insurance shall be provided to MDAD Airside Operations Division upon request.

20.10.06 Before the Concessionaire shall permit any employee with pictured I.D. to operate a motor vehicle on the AOA without MDAD escort, the Concessionaire shall require such employee to have a current, valid, appropriate Florida driver's license and to attend and successfully complete the AOA Driver Training Course conducted periodically by the Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department because of violation of AOA driving rules or loss of Florida driver's license.

20.10.07 The Concessionaire agrees that its personnel, vehicles and other personal property are subject to being searched when attempting to enter, leave or while on the AOA. It is further agreed that the MDAD has the right to prohibit an individual, agent or employee of the Concessionaire or Subconsultant from entering the AOA, based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage or other unlawful activities, including repeated failure to comply with MDAD or the FAA, SIDA and AOA access control policies, rules and regulations. Any person denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a review hearing before the Director or his/her authorized designee within a reasonable time. Prior to such hearing, the person denied access to the AOA will be advised, in writing, of the reasons for such denial.

The Concessionaire acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of thefts, cargo tampering, aircraft sabotage and other unlawful activities at the Airport and to maximize compliance with MDAD or FAA access control policies and procedures.

20.10.08 The Concessionaire understands and agrees that vehicles shall not be parked on the AOA or other areas of the airport property not designated or authorized by MDAD

nor in any manner contrary to any posted regulatory signs, traffic control devices or pavement markings.

20.10.09 The Concessionaire understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies shall not be employed by the Concessionaire in areas under the jurisdiction or control of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies who enter such areas are subject to fines, which shall be borne entirely by the persons and/or the Concessionaire.

20.10.10 Notwithstanding the specific provisions of this Article, the Owner shall have the right to add to, amend or delete any portion hereof in order to meet reasonable security requirement of MDAD or of the FAA.

20.10.11 The Concessionaire shall ensure that all employees so required participate in such safety, security and other training and instructional programs, as MDAD or appropriate Federal agencies may from time to time require.

20.10.12 Concessionaire agrees that it will include in all agreements with its MIA Subconsultants an obligation by such parties to comply with all security requirements applicable to their operations at the Airport. Concessionaire agrees that in addition to all remedies, penalties and sanctions that may be imposed by MDAD or the FAA upon Concessionaire's Subconsultants and their individual employees for a violation of applicable security provisions, Concessionaire shall be responsible to the Owner for all such violations and shall indemnify and hold the Owner harmless for all costs, fines and penalties arising there from, such costs to include reasonable attorneys' fees.

20.11 MISCELLANEOUS PROVISIONS: Concessionaire and its employees shall promptly observe and comply with applicable provisions of all federal, state, and local statutes, ordinances, regulations and rules which govern or apply to Concessionaire or to its operations hereunder.

1. Concessionaire shall, at its own cost and expense, procure and keep in force during the Term of this Agreement, all necessary licenses, registrations, certificates, bonds, permits, and other authorizations as are required by law in order for Concessionaire to operate from the Locations granted hereunder and shall pay all taxes, (including sales and use taxes), assessments (including, without limitation, storm water utility fees and impact fees) which may be assessed, levied, exacted or imposed by all governmental authorities having jurisdiction, on Concessionaire's property, on its operations, on its gross revenues, on its income, on this Agreement and the fees payable to Department hereunder, on the rights and privileges granted to Concessionaire herein, on the Locations and on any and all equipment installed at the Locations, and

Concessionaire shall make and file all applications, reports, and returns required in connection therewith.

2. Concessionaire agrees to repair promptly, at its sole cost and expense and in a manner acceptable to Department, any damage caused by Concessionaire or any of its officers, agents, employees, contractors, subcontractors, licensees or invitees to the Airport or any equipment or property located thereon.
3. Concessionaire is not authorized to act as Department's agent hereunder and shall have no authority, express or implied, to act for or bind Department hereunder and nothing contained in this Agreement shall be deemed or construed by Department or Concessionaire or by any third party to create the relationship of partnership or of joint venture. No provision of this Agreement shall be deemed to make Department the joint employer of any employee of Concessionaire.
4. Department, through its designated agents, shall have the right during Concessionaire's normal business hours (and at any time during an emergency) to inspect the Locations and the property of Concessionaire located thereon, in order to enforce this Agreement, to enforce applicable laws and regulations, and to protect persons and property.
5. Except as otherwise provide herein, if certain action may be taken only with the consent or approval of the Department or the Department, or if a determination or judgment is to be made by the Department or the Department, such consent or approval may be granted or withheld, or such determination or judgment shall be made, in the sole discretion of the Department or the Department.

20.12 LOBBYING RULES:

The County's Ethics Commission has adopted rules delineating the responsibilities of lobbyists and County personnel in implementing the requirements of the lobbying section of the Conflict of Interest and Code of Ethics Ordinance (Exhibit F "Lobbying Rules"). The Concessionaire shall comply with these requirements.

- 20.13 ENTIRE AGREEMENT:** This Agreement, together with the Appendix and Exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and any prior agreements, representations or statements made with respect to such subject matter, whether oral or written, and any contemporaneous oral agreements, representations or statements with respect to such subject matter, are merged herein; provided, however, that Concessionaire hereby affirms the completeness and accuracy of the information provided by Concessionaire to Department in the Eligibility and Bid Form, and in all attachments thereto and enclosures therewith, submitted by Concessionaire to Department in connection with the award of this Concession.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials as of the date first above written.

CONCESSIONAIRE

LATIN AMERICAN ENTERPRISES INC
(Legal Name of Corporation)

ATTEST:

Secretary: ROSENDO SANTOS

(Signature and Seal) Concessionaire - Signature

CONTROLLER
(Type Name & Title)

Name: JUAN JOSE PINO

PRESIDENT
(Type Name & Title)

INDIVIDUAL, PARTNERSHIP OR JOINT VENTURE

Legal Name

Legal Name

By: _____
Signature

By: _____
Signature

(Type Name & Title)

(Type Name & Title)

Attest: _____

Attest: _____

Name of Managing Joint Venturer:

Witness: _____

By: _____
Signature of Authorized Representative
Corporate Seal of the Joint Venturer

(ATTACH ADDITIONAL SHEETS FOR EACH JOINT VENTURER, AS NEEDED)

COUNTY
ATTEST:

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved for Form and Legal Sufficiency

Roy Wood
Assistant County Attorney

BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

By: _____
County Manager

Resolution No.:

Date:

APPENDIX A
SCOPE OF SERVICES

SCOPE:

The Concessionaire shall provide prepaid phone card vending machine concessionaire (“Concessionaire”) services, which shall include providing necessary equipment, installation, operation, and maintenance of prepaid phone card vending machines (“Machines”) located in Miami International Airport, as further defined herein. The Concessionaire shall not vend any other product(s) except prepaid phone cards [“Card(s)”] through the Agreement issued as a result of this ITB, unless specifically permitted in writing by MDAD. The Concessionaire shall place in strategically located areas (“Locations”) thirty-seven (37) Machines throughout MIA. The Machines shall be refilled and maintained so as to be operational and in service 24 hours daily, three hundred sixty-five (365) days a year. The exterior of the Machines shall be well maintained and pleasing to the eye.

TERM:

The term of the Agreement issued as a result of this ITB shall be for three (3) years with one (1) one-year extension at the sole discretion of the Department. The term shall start on the Commencement Date of the Agreement.

The Concessionaire shall take whatever measures needed, within the confines of the Agreement, to maximize sales at these Machines and shall not take any action to encourage Customers to buy these Cards from alternative locations, more specifically at the retail stores at MIA.

LOCATIONS:

The Concessionaire shall operate the prepaid phone card vending machines at those locations referenced in “Phone Card Machines Location List, Exhibit A”, in the Agreement, and as may be changed by the Department from time to time, and shall use and occupy those Locations solely for the purpose of operating the prepaid phone card vending machines as described herein and for no other business or purpose whatsoever. The anticipated locations of these Machines are as stated below:

1	First Level	9 Machines
2	Second Level	17 Machines
3	Third Level	1 Machine
4	Concourses	10 Machines

The Department shall approve a final plan for the location of all Machines and changes cannot be made to the Locations without the written approval of the Department. The Concessionaire can present different or new location concepts to MDAD for review.

PHASING SCHEDULE

The North and South Terminals are currently under construction. The North Terminal (Concourses A-D) will be opened in phases with an expected completion date sometime in the first quarter of 2008. The total amount of Machines relocated to Concourses A-D by the completion date of the North Terminal is six (6) Machines.

The South Terminal is expected to be opened for business in March 2006. It is anticipated that nine (9) Machines will be relocated to areas in the South Terminal.

INSTALLATION AND MAINTENANCE:

The Concessionaire shall be responsible for all permitting and installation requirements for any new dedicated electrical outlets; for any mounting requirements; and for all maintenance and repairs associated with the prepaid phone card vending machines, at the Concessionaire's sole cost and expense. Any Machine locations requiring electrical outlets shall be performed by the Concessionaire pursuant to TAC-N procedures, Exhibit C. Electrical cords if used, must be covered and not create a tripping hazard or other safety hazard.

EQUIPMENT SPECIFICATION:

Machines shall meet all Federal, State and County codes. The Concessionaire shall affix MDAD provided decals to each Machines located in Department approved Locations.

Machines shall be clearly marked, in English and Spanish, within 6 inches, above and/or below the dollar bill acceptor, "EXACT AMOUNT ONLY", "MAQUINA NO DA CAMBIO" or any variation thereof.

Concessionaire shall provide two types of Machines: freestanding units and wall-mounted units. Free standing units shall be slim pedestal type models, with dimensions that shall be W: 24 – 36"; by up to 60" H; by up to 17"D, or any combination within those sizes. The wall-mounted units shall be W: 14 - 20"; by H: 22 - 26.5"; and D: 10.5 - 22", and any combination within those sizes.

Machine design, size, finishes, and colors shall be subject to prior Department approval. Features of the Machines are to include, at a minimum: a jam proof dispensing system, 14 gauge cabinet and door, high security hardened stainless steel lock, scratch resistant plexi graphics protector. The Machines shall be able to accept

US currency in the following denominations \$10 and \$20. Machines with credit cards capabilities are permissible.

Any signage must have prior approval from the Department and is subject to the terms and conditions of the Agreement. Moving or flashing signs are prohibited.

Concessionaire may be required, at its own expense, to install protective devices against burglary or vandalism. Machines will not have any cavities or openings in which to conceal weapons of any kind.

Also, see the requirements for Machines requirements under "Customer Service", below, as it pertains to phone rates listed on Machines.

Prior to installation of any Machines, Concessionaire shall provide to the Department requested information pertaining the Machines' reporting functionalities and capabilities (e.g. paper trail, electronic monitoring, certification from Machine manufacturer that revenue calculating devices in the Machines are tamperproof, etc).

CARDS:

Cards must be usable from any touch-tone phone.

Cards must provide multilingual instructions in English, Spanish, Portuguese, French, Italian and German on each card sold. The Department reserves the right, if it deems it necessary, to add other languages.

The interchange network and platform supporting the prepaid phone cards shall be available to Card users upon request and shall be accessible 24 hours, 365 days a year.

Upon accessing the Card's recorded message, in the languages specified above, to enter the PIN, a message shall advise the user of the remaining balance on the Card, without charge, and while a conversation is in progress, advise the user when 1 minute of usage is left by means of a tone.

Any prepaid phone cards that are rechargeable must allow recharging from locations other than the point of purchase. The calls to refresh the Cards must be toll free.

The Concessionaire must contract with on-site concessionaires, so as to provide immediate refunds to Customers.

Access Numbers and PINS must work at all times. Connections to access numbers must be of good quality.

PRICING:

The Concessionaire shall provide Customers with Cards in \$10 and \$20 denominations. A \$50.00 Card denomination is permissible, upon approval received from MDAD. No other denominations will be accepted. Prices shall not include any hidden charges or surcharges. Cards will only debit time when an actual connection is made (except for the Concessionaire's 800 Customer Service # which shall not be a charge against the minutes available on the Card). The Concessionaire shall provide a list of Prices for all calls domestic and international by Country. The Concessionaire shall forward to MDAD Project Manager a new list any time and every time a Price changes. MDAD will review rates periodically as needed.

REPORTING:

The Concessionaire shall provide an electronic record of all transactions by location and by Machine, for accounting and auditing purposes, monthly or upon request by the Department. The Machines must generate printed revenue reports as requested by the Department. The manufacturer of the Machine must provide a certificate verifying that the revenue mechanism creating the reports is tamperproof. Machines or any part of the Machines cannot be replaced without the written permission of the Department, and any replacement Machines or parts of Machines shall at all times meet the requirement above. The Department reserves the right to inspect the Machines and to audit the Concessionaire on a random basis without notice to the Concessionaire and to oversee all collections made by Concessionaire from Machines. The Concessionaire shall provide a schedule to the Department Project Manager stating the times as which collections are to be made. No collection shall be made at anytime not indicated on the schedule.

Any evidence of tampering may lead to termination of the Agreement. Only a certified company technician may have access to the accounting system and must notify the Department before servicing or repairing any part of the machine that produces access to the accounting system. A copy of transaction report or similar information will need to be submitted with the Concessionaires monthly payment for verification.

UTILITIES:

The cost of all utilities used or consumed in the locations shall be borne by the Concessionaire. The Concessionaire shall pay a prorated charge for electrical consumption for the operation of its machines as further stated in the Agreement.

CUSTOMER SERVICE:

The Concessionaire shall display on the Machines, a company 1-800 phone number, operational 24 hours, 365 days a year, to answer questions, resolve complaints, issue refunds and/or provide additional cards/minutes. This service is in addition to the 1-800 phone number on the Card for the long distance carrier. The Concessionaire

shall respond to calls to this 800 number within three minutes of the initiation of the call to the Help center. Answering services and/or answering machines are not an acceptable alternative to the customer service requirement. If a Customer is utilizing a Concessionaire's Card, the Customer shall not have minutes deducted from this Card for making the 800 number Customer Service call.

The Concessionaire shall display information and instructions on the Machines in at least two languages (English and Spanish); and shall display rates per minute, specified by area or by more frequently dialed destinations for at least 20 Countries. Additionally, the Concessionaire shall include language on each Machine stating that in the instance a particular Country is not listed the Customer can dial a toll free number to get "rates" (minutes per dollar) information. This information shall be available to Customers within two minutes of the time the call is made. Any and all information the Concessionaire intends to place on Machines shall be submitted to the Department for approval prior to installation. Once the Department approves the information to be displayed on the Machines, changes to this information cannot be made without written approval from the Department.

EXHIBIT A-1
LOCATIONS SUMMARY

PROPOSED PREPAID PHONE CARD VENDING MACHINES LOCATIONS

Exhibit # Location

FIRST LEVEL

B101	Terminal B
C101	Terminal C
D101	Terminal D
E101	Terminal E
E102	Terminal E
F101	Terminal F
F102	Terminal F
G101	Terminal G
H101	Terminal H

SECOND LEVEL

A201	Concourse A
A202	Concourse A
A203	Terminal A
A204	Terminal A
B201	Terminal B
C201	Terminal C
C202	Terminal C
C203	Concourse C
D201	Terminal D
D202	Terminal D
D203	Concourse D
D204	Concourse D
E201	Terminal E
E202	Terminal E
E203	Terminal E
E204	Terminal E
E205	Terminal E
E206	Concourse E
F201	Terminal F
F202	Concourse F
F203	Concourse F
G201	Terminal G
G202	Terminal G
G203	Concourse G
G204	Terminal G
H201	Terminal H
H202	Concourse H

THIRD LEVEL

B301	Terminal B
------	------------

FUTURE PREPAID PHONE CARD VENDING MACHINES LOCATIONS

Exhibit # Location

FIRST LEVEL

B101 Terminal B
B102 Terminal B
C101 Terminal C
D101 Terminal D
E101 Terminal E
F101 Terminal F
G101 Terminal G
H101 Terminal H
H101S Terminal H
J101S Terminal J

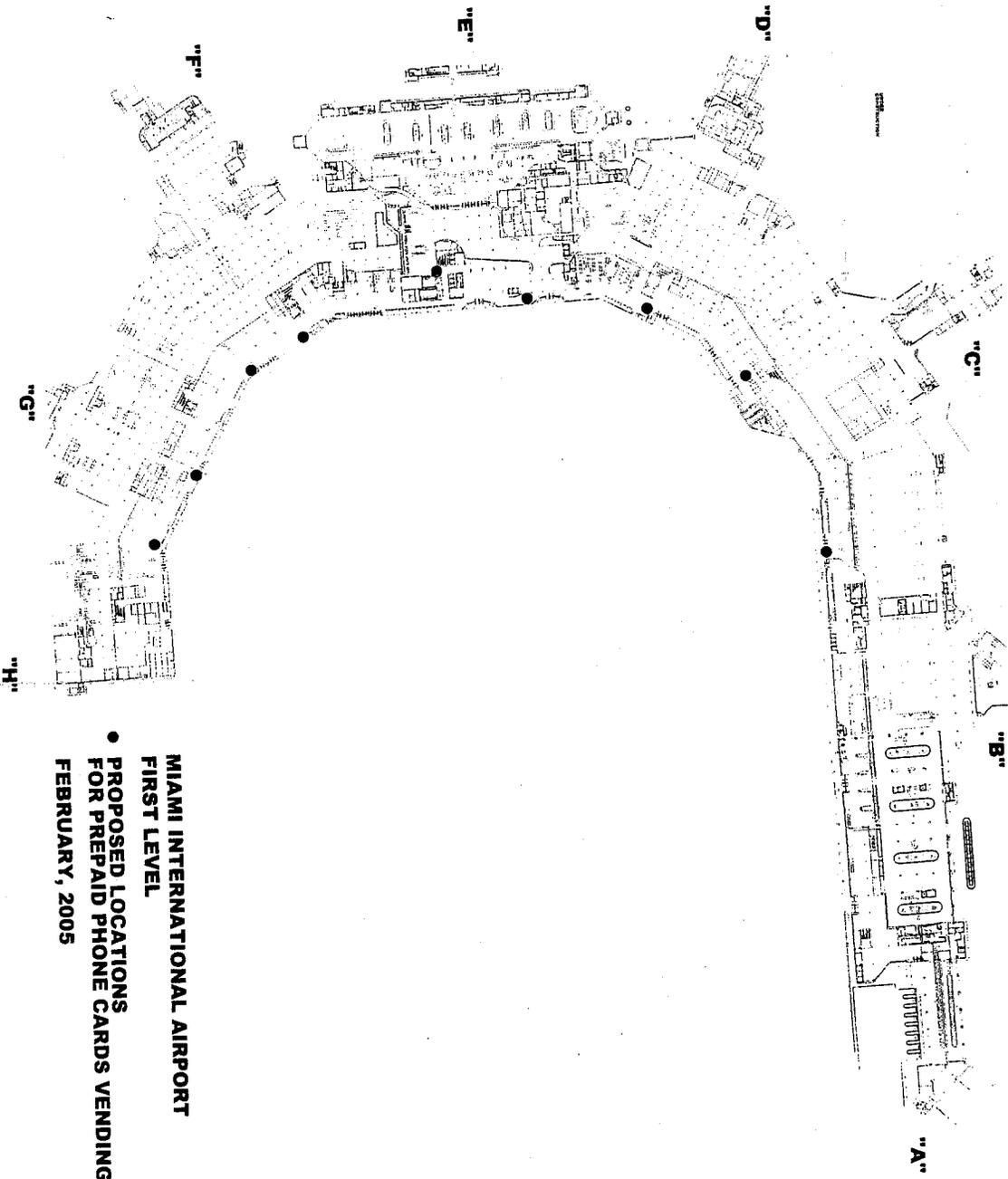
SECOND LEVEL

A201 Concourse A
A202 Concourse A
B201 Terminal B
B202 Terminal B
B203 Terminal B
B204 Terminal B
B205 Terminal B
B206 Terminal B
C201 Terminal C
C202 Terminal C
C203 Concourse C
D201 Concourse D
D202 Terminal D
E201 Terminal E
E202 Terminal E
E203 Terminal E
F201 Concourse F
F202 Concourse F
G201 Terminal G
G202 Concourse G
H201 Terminal H
H202 Concourse H
J201 Terminal J
J202 Terminal J
J203 Concourse J

THIRD LEVEL

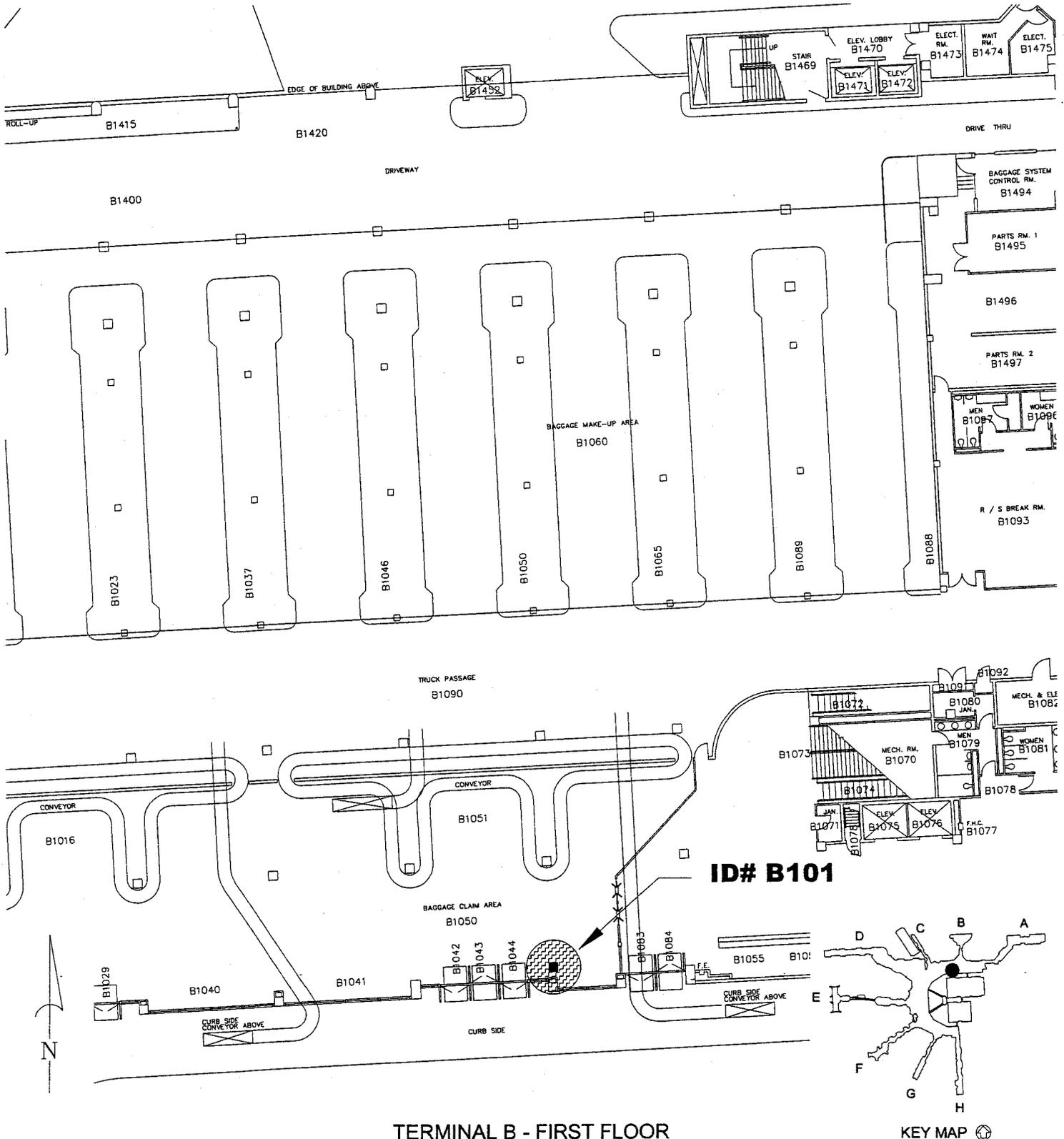
H301 Terminal H
H302 Terminal H

EXHIBIT A
PHONE CARD LOCATIONS



MIAMI INTERNATIONAL AIRPORT
 FIRST LEVEL
 ● PROPOSED LOCATIONS
 FOR PREPAID PHONE CARDS VENDING MACHINE ITB
 FEBRUARY, 2005





TERMINAL B - FIRST FLOOR

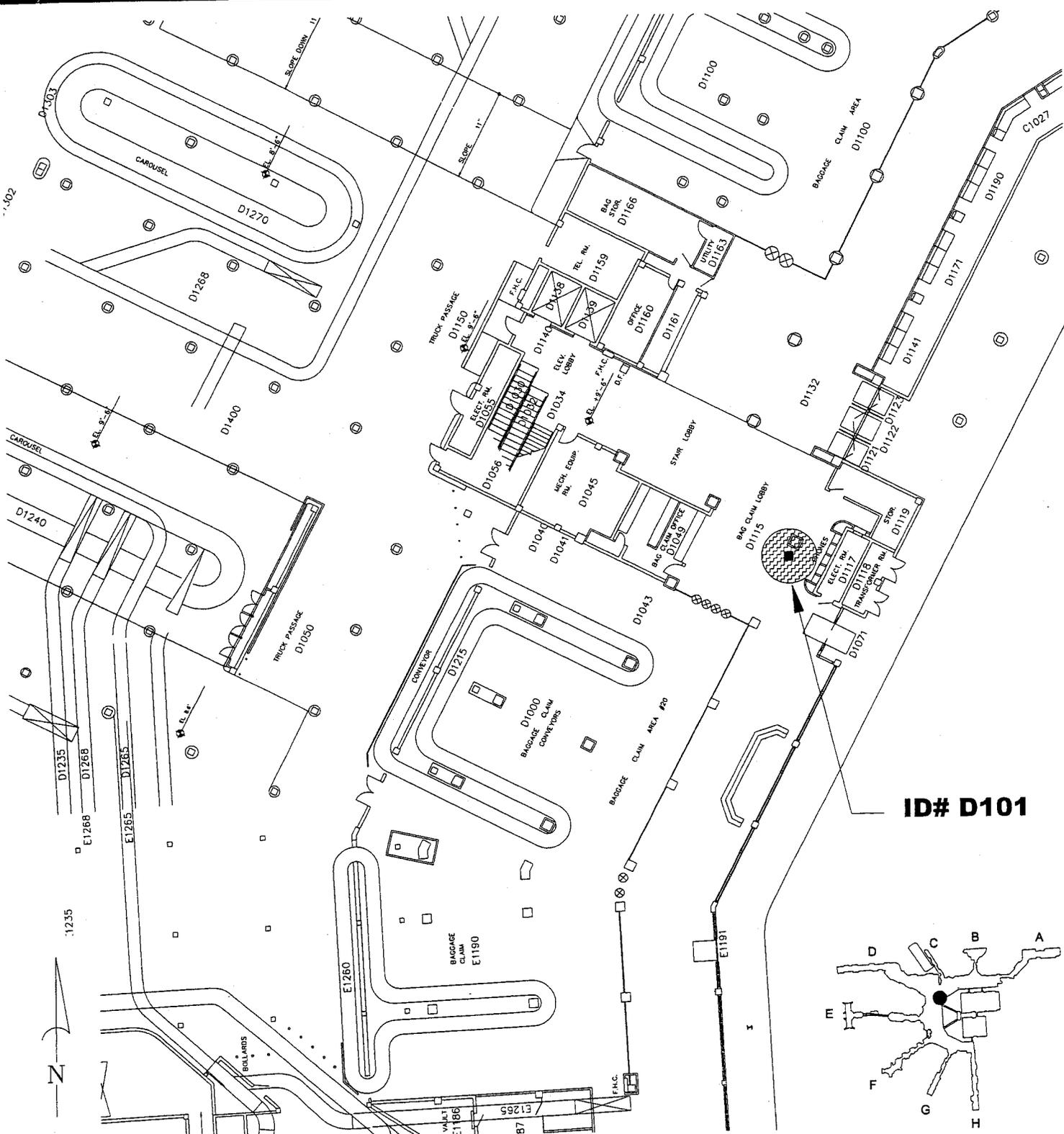
CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

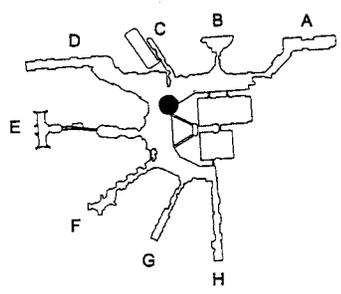
**PRE-PAID PHONE CARDS
 VENDING MACHINE ITB**

91



TERMINAL 'D' - FIRST FLOOR

ID# D101



KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

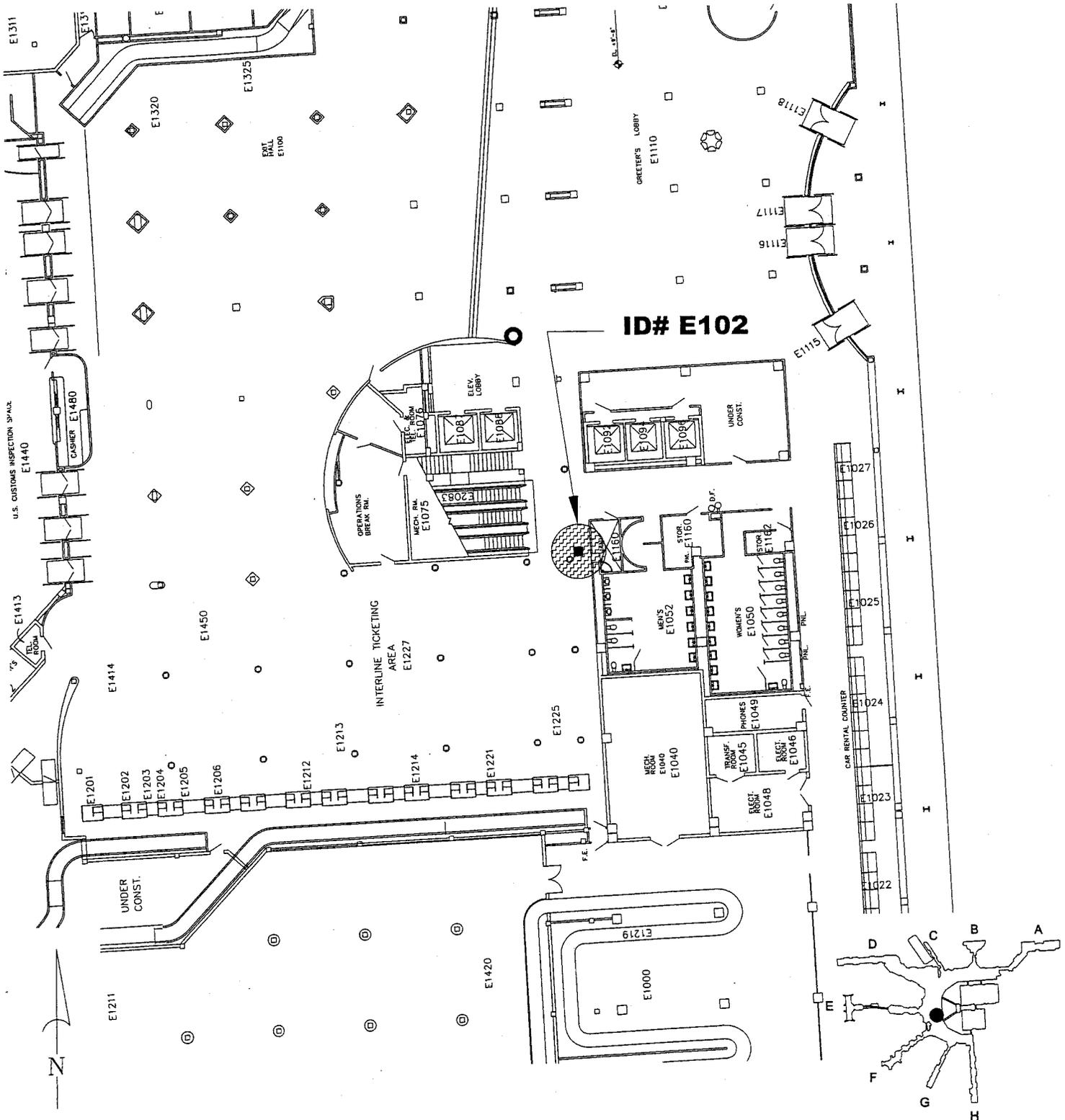
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

93



ID# E102

TERMINAL 'E' - FIRST FLOOR

KEY MAP

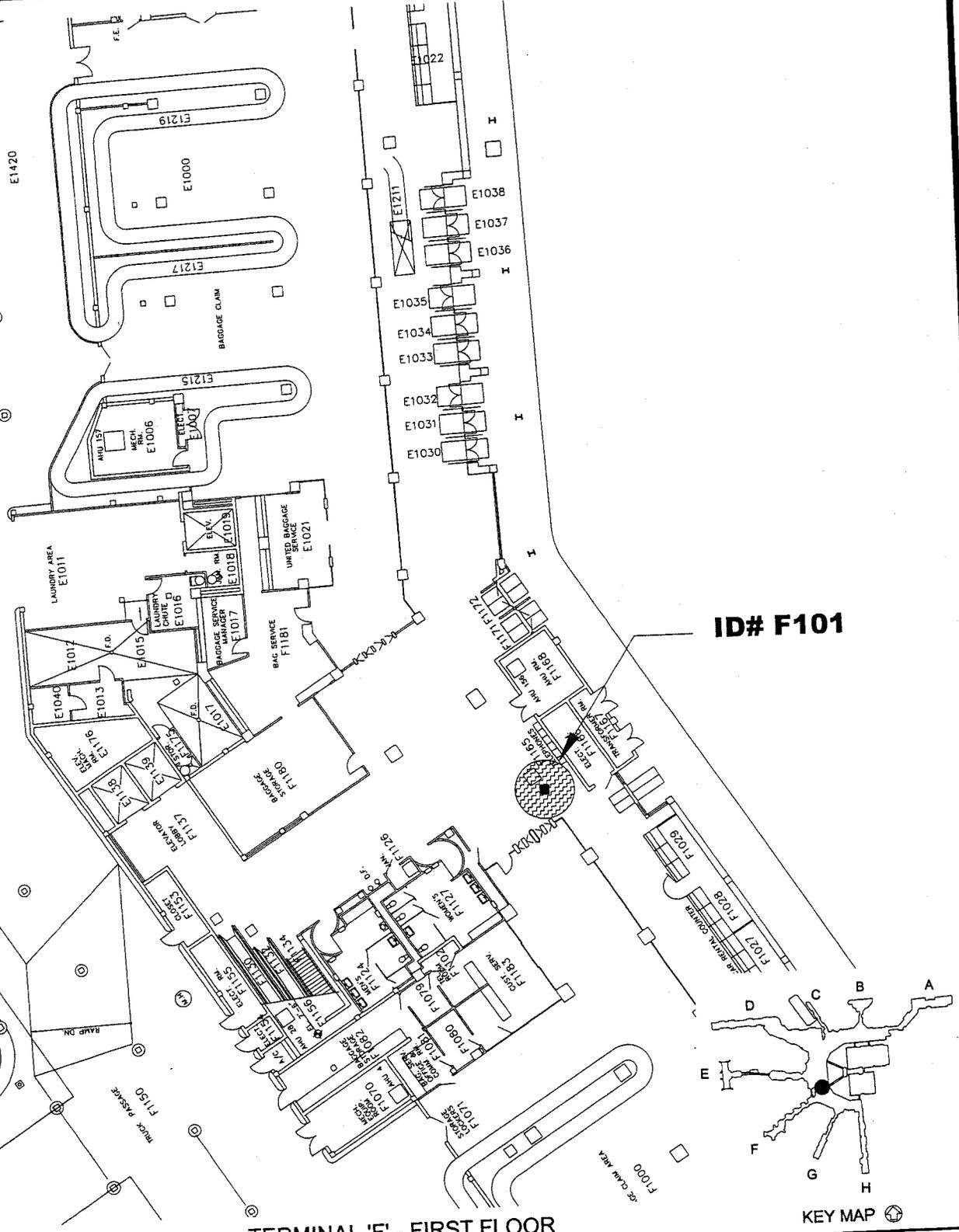
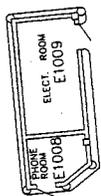
CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

25



TERMINAL 'F' - FIRST FLOOR

KEY MAP

CODE:

SPACE CLASS

SQ. FT.



VENDING MACHINE (2' X 3')

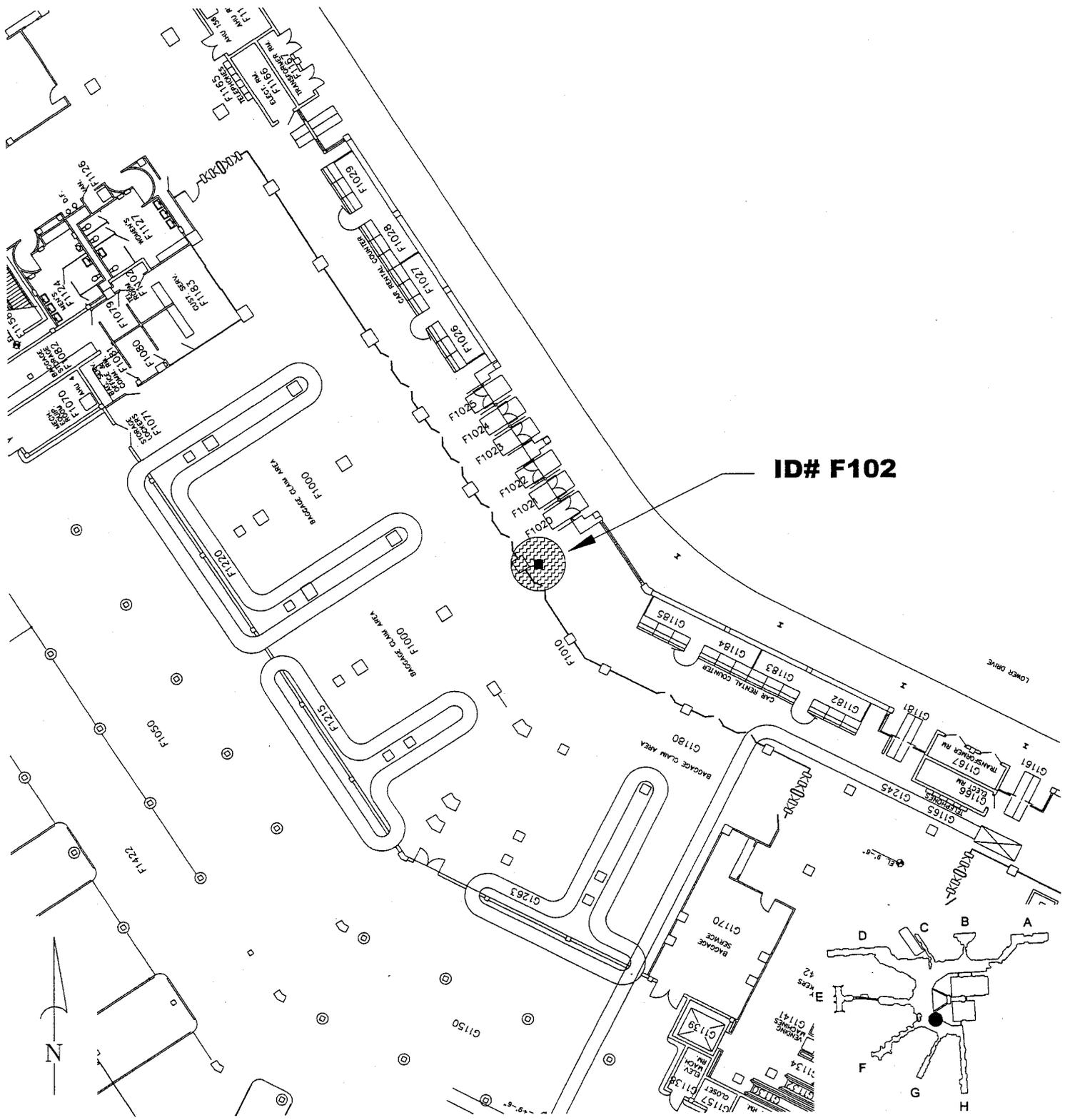
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

PRE-PAID PHONE CARDS
VENDING MACHINE ITB

96



ID# F102

TERMINAL 'F' - FIRST FLOOR

KEY MAP

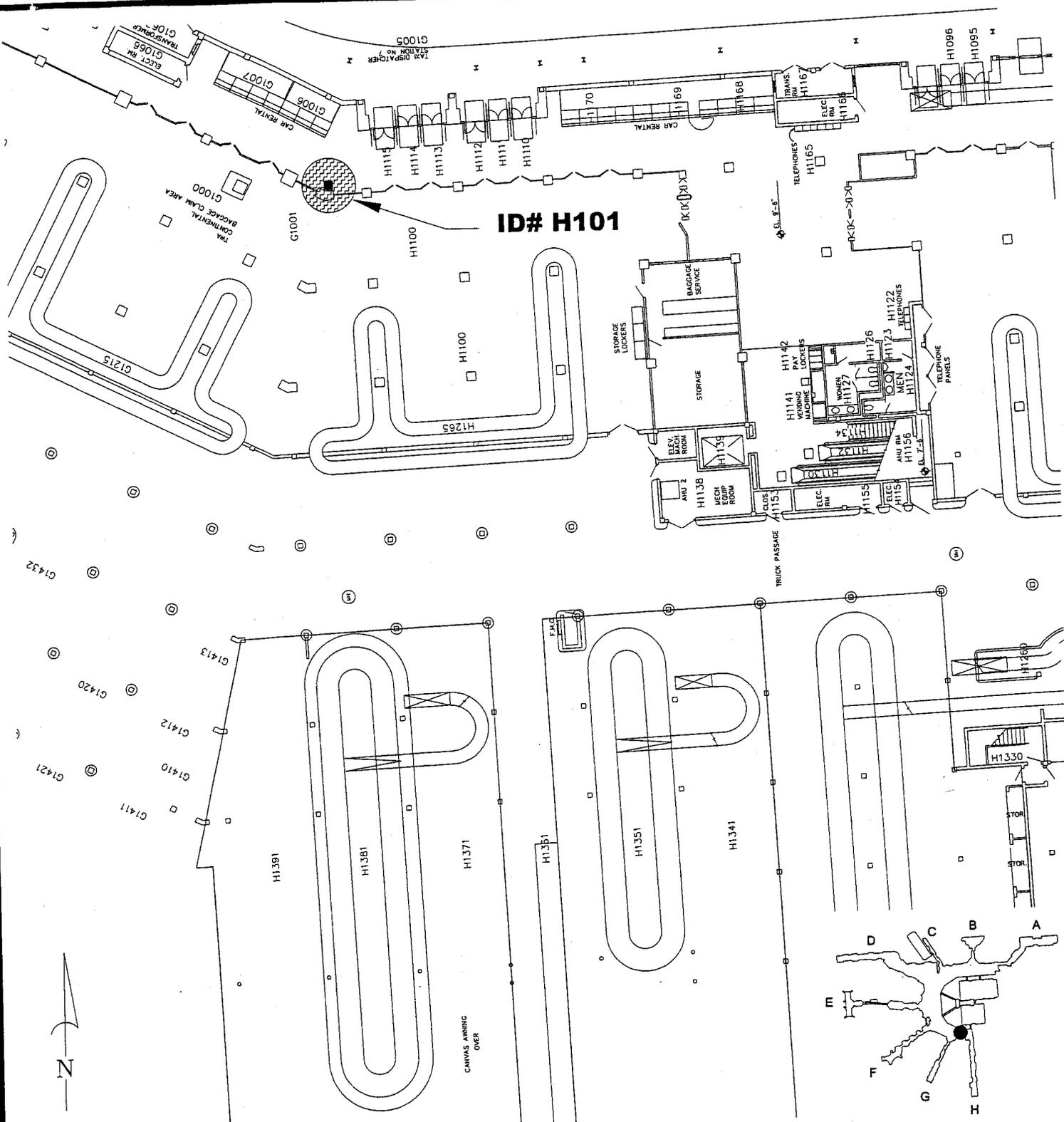
<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

97



TERMINAL 'H' - FIRST FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

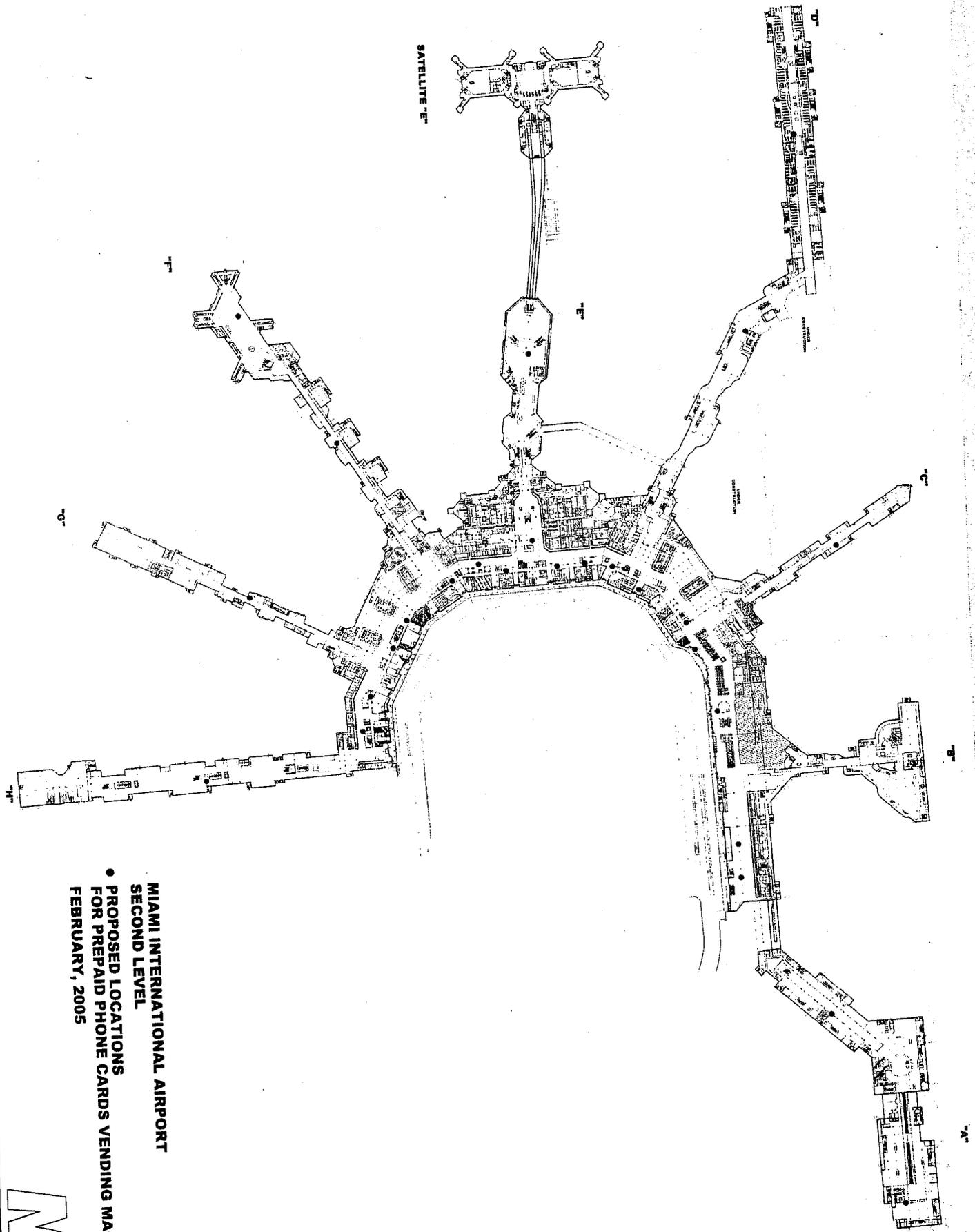
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

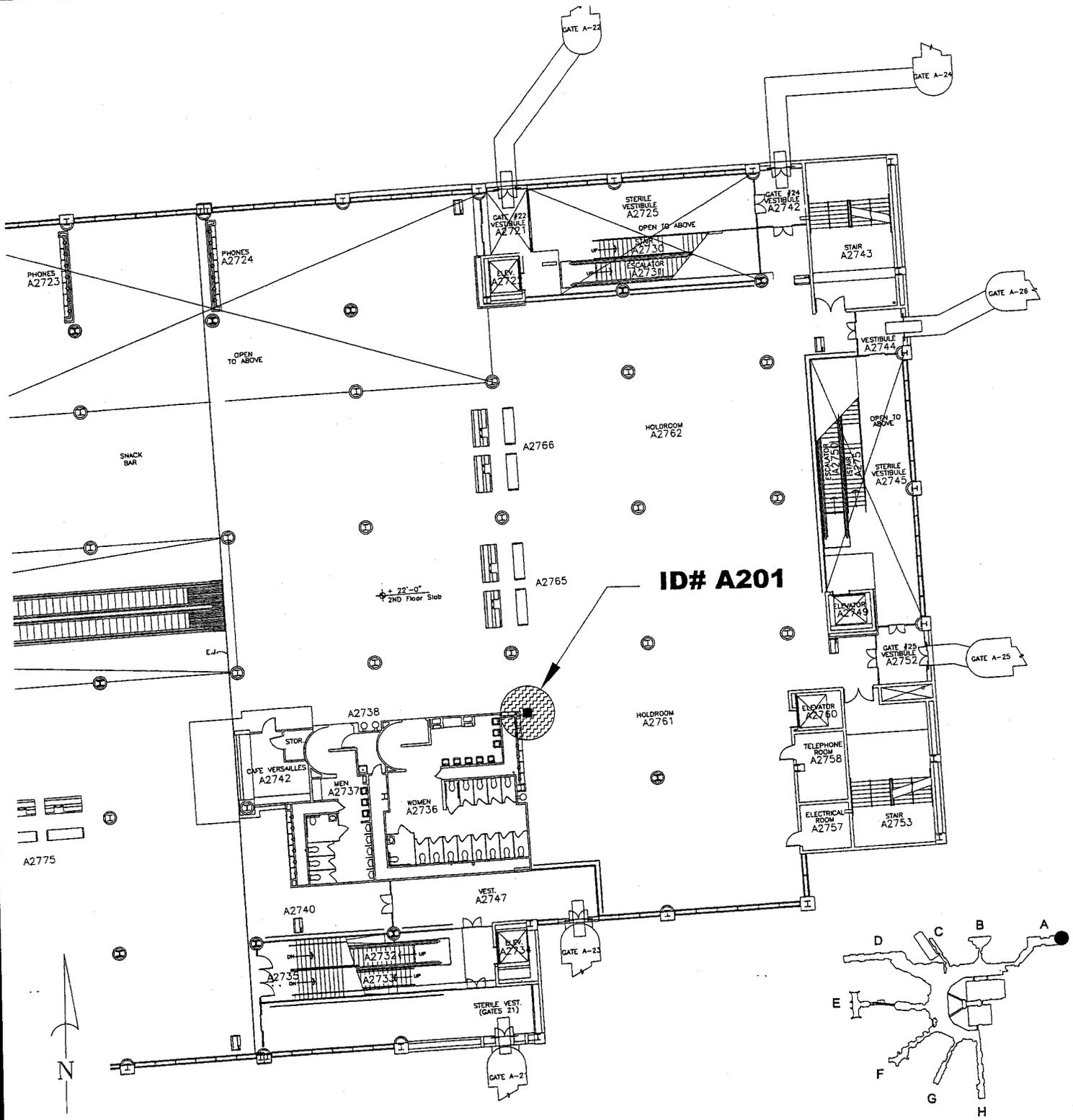
99



120

MIAMI INTERNATIONAL AIRPORT
 SECOND LEVEL
 ● PROPOSED LOCATIONS
 FOR PREPAID PHONE CARDS VENDING MACHINE ITB
 FEBRUARY, 2005





CONCOURSE 'A' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

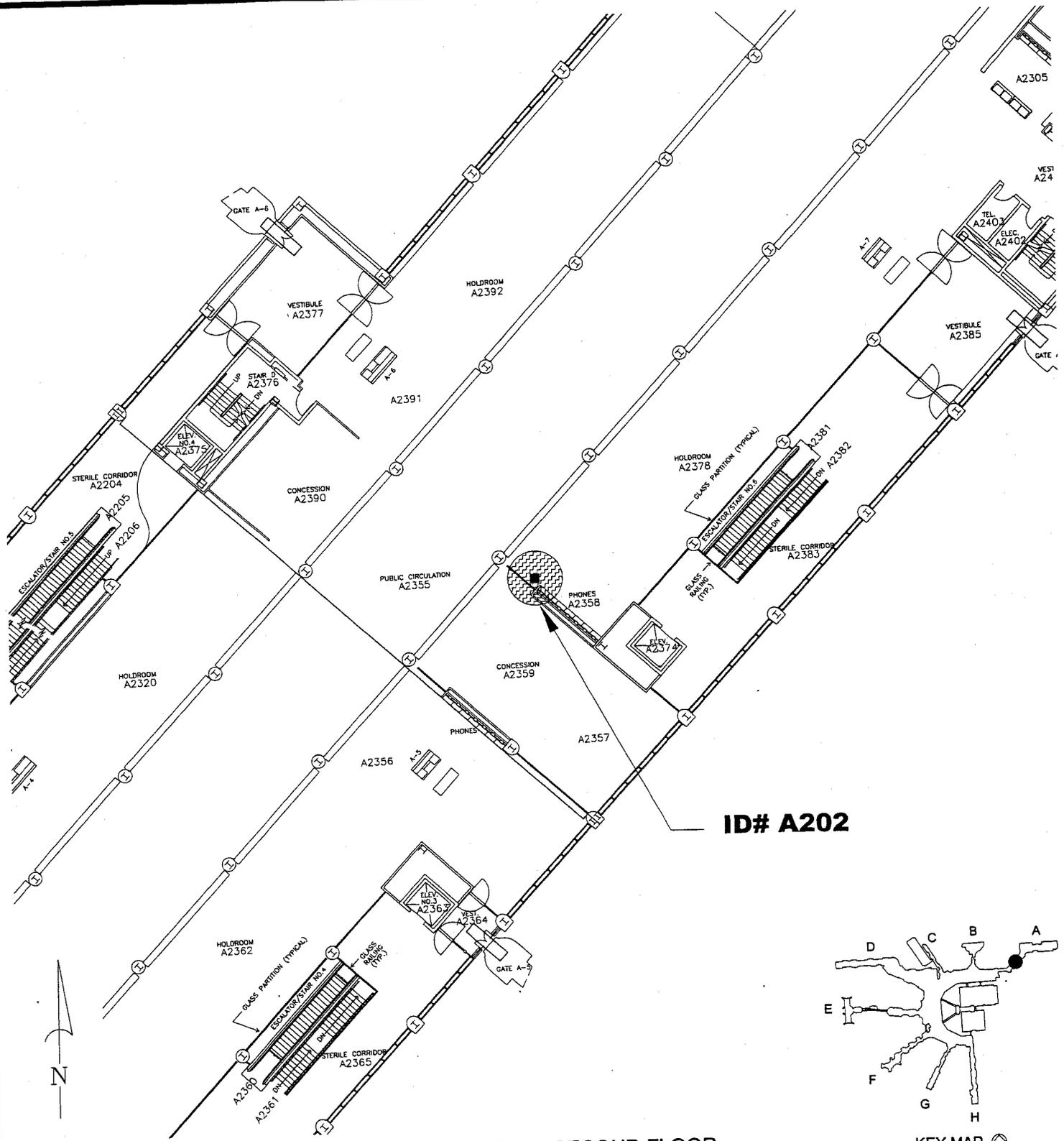
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

101



ID# A202

CONCOURSE 'A' - SECOND FLOOR

KEY MAP

CODE: **SPACE CLASS** **SQ. FT.**



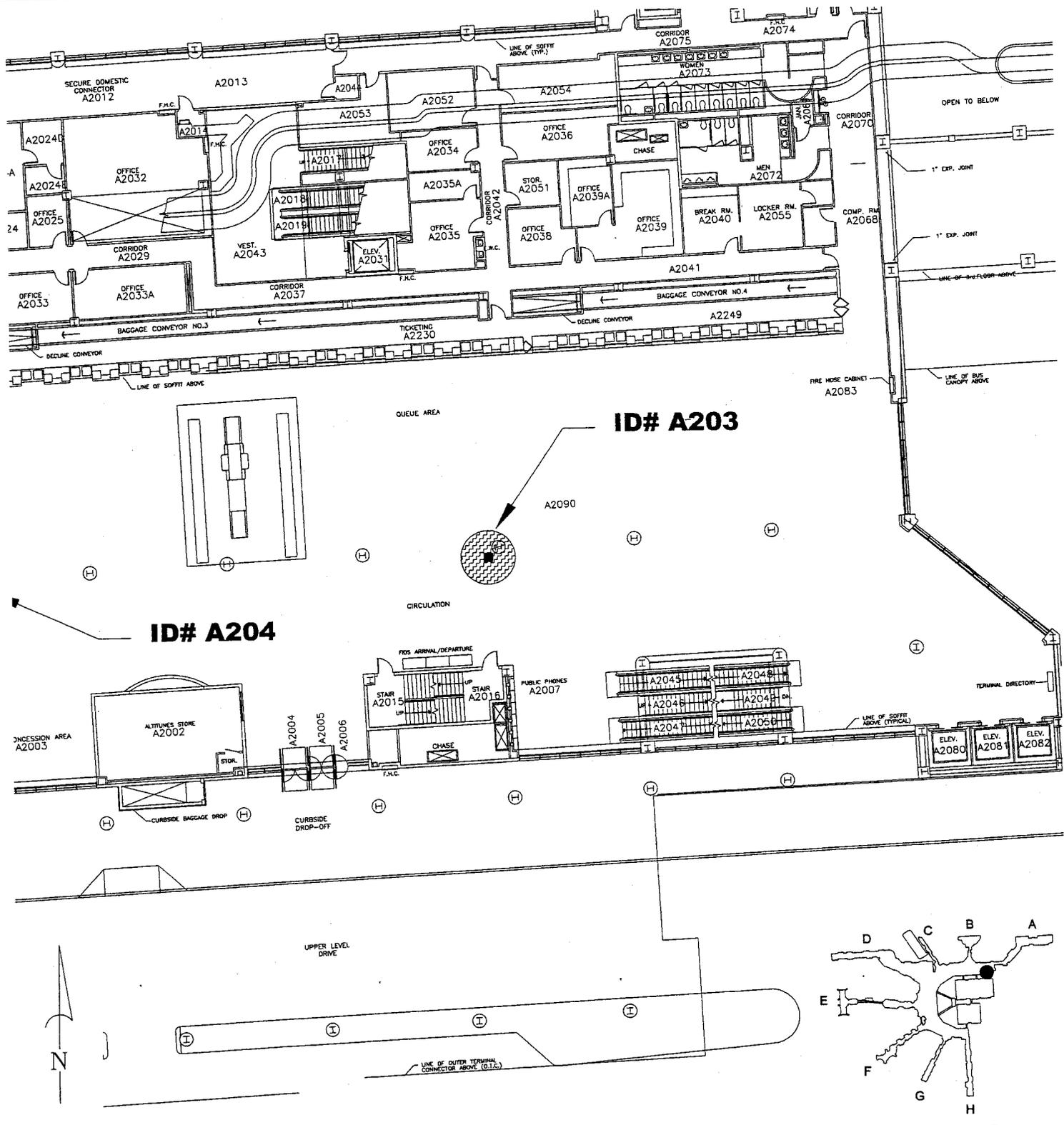
VENDING MACHINE (2' X 3') 6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

102



TERMINAL 'A' - SECOND FLOOR

KEY MAP

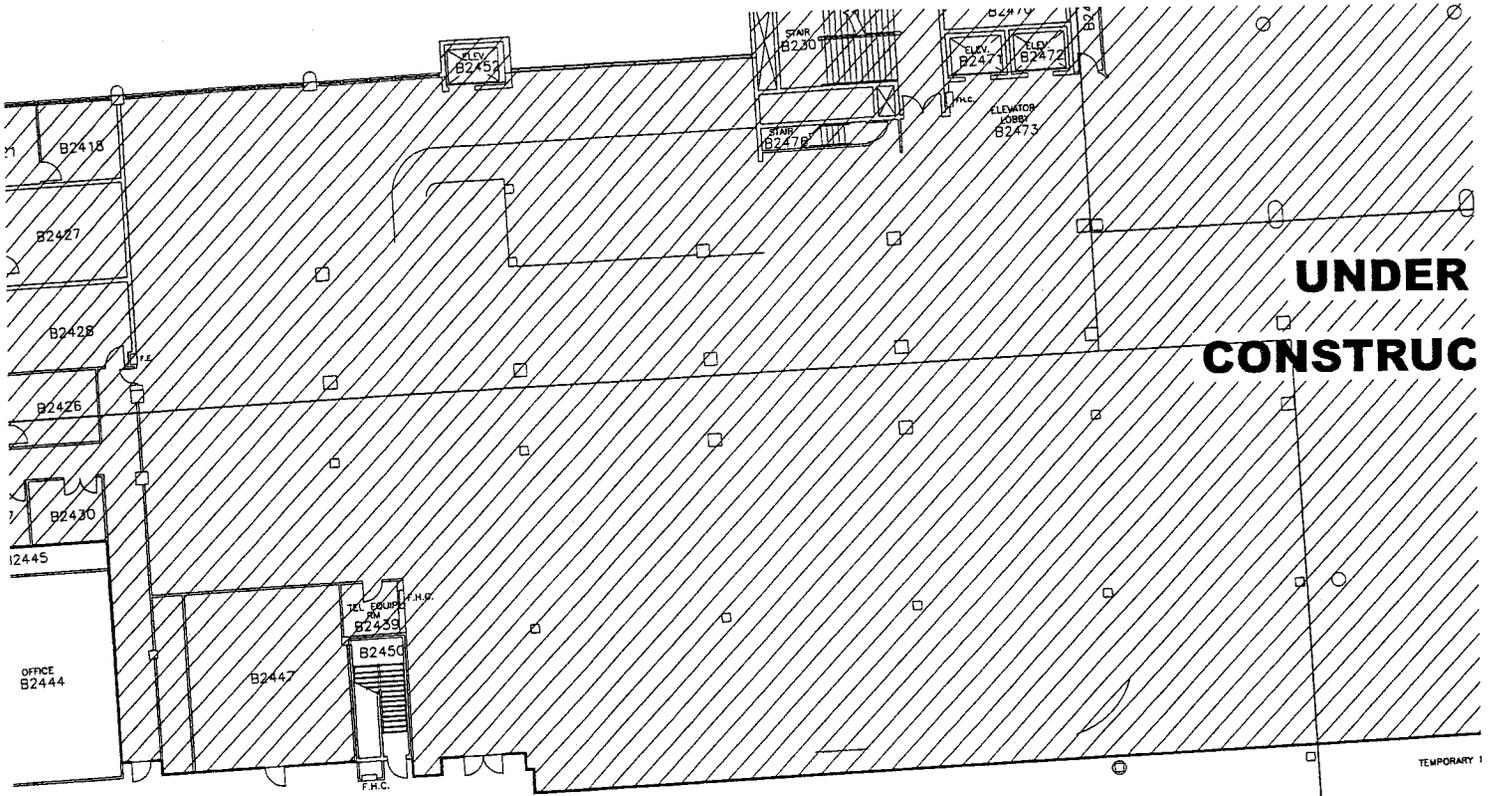
CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

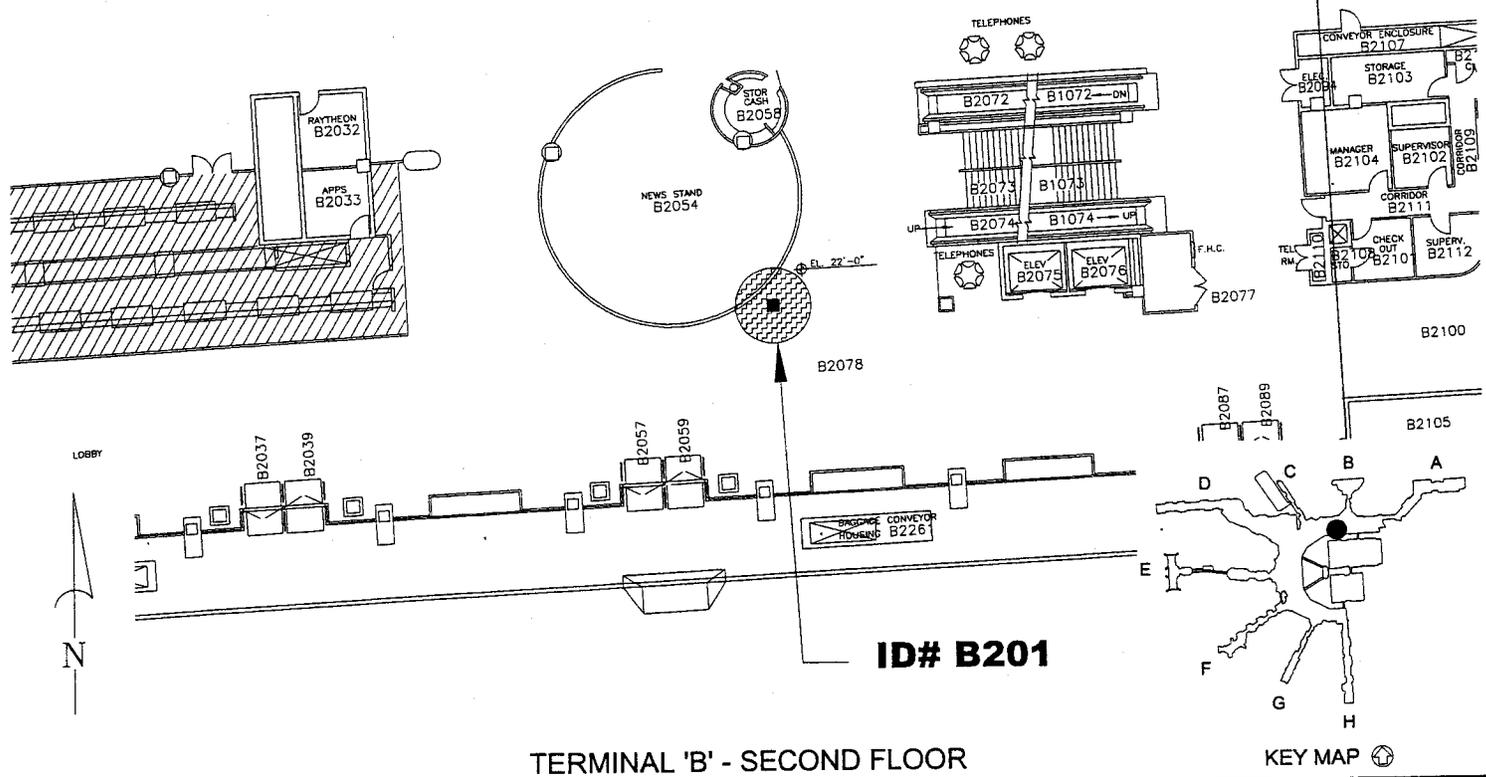
EXHIBIT A

**PRE-PAID PHONE CARDS
 VENDING MACHINE ITB**

103



**UNDER
CONSTRUCTION**



ID# B201

TERMINAL 'B' - SECOND FLOOR

KEY MAP

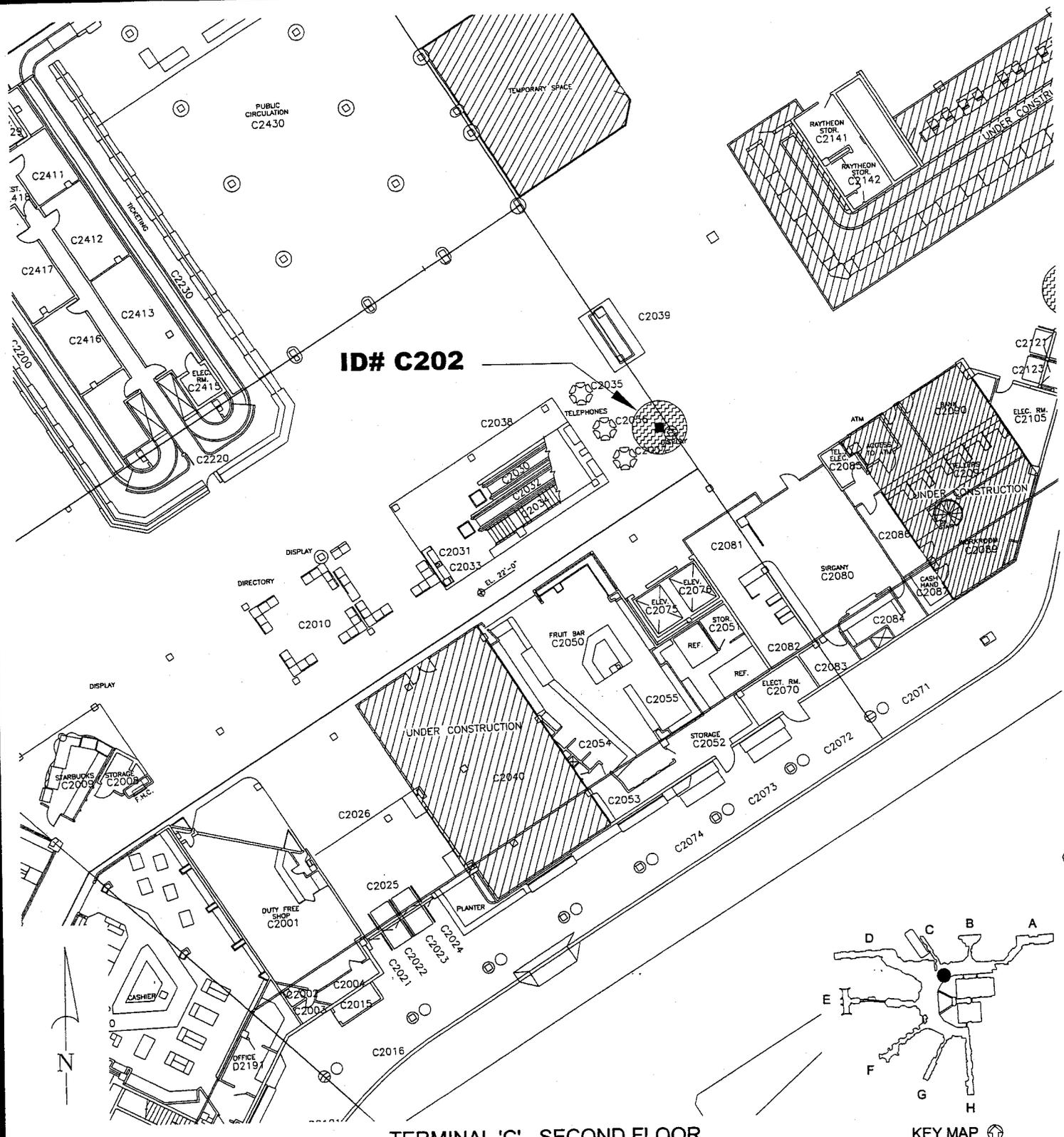
CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

105



TERMINAL 'C' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

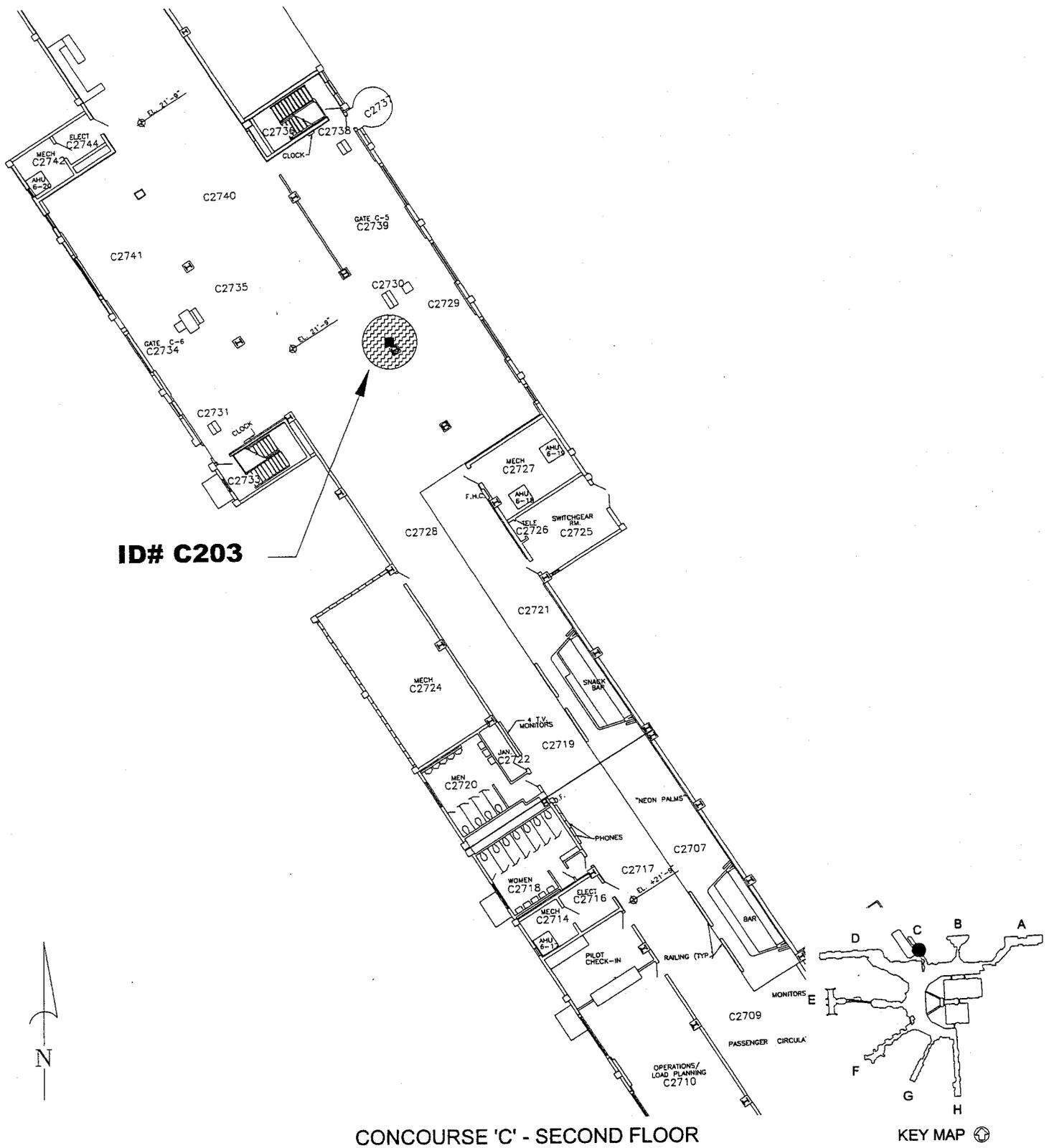
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

107



CONCOURSE 'C' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

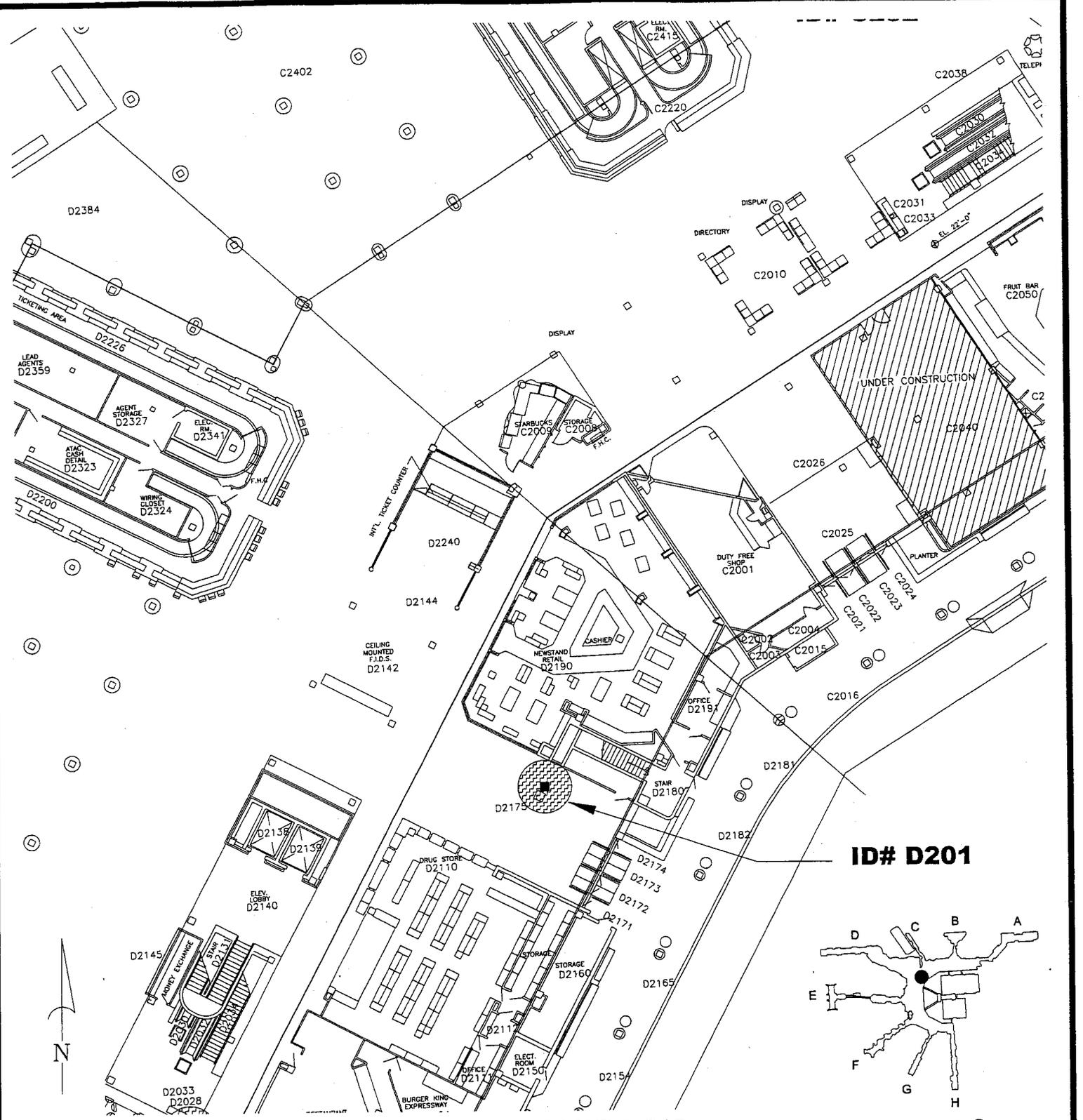
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

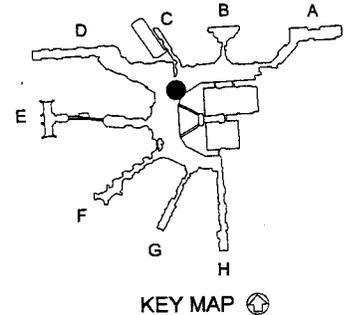
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

108



TERMINAL 'D' - SECOND FLOOR

ID# D201



KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

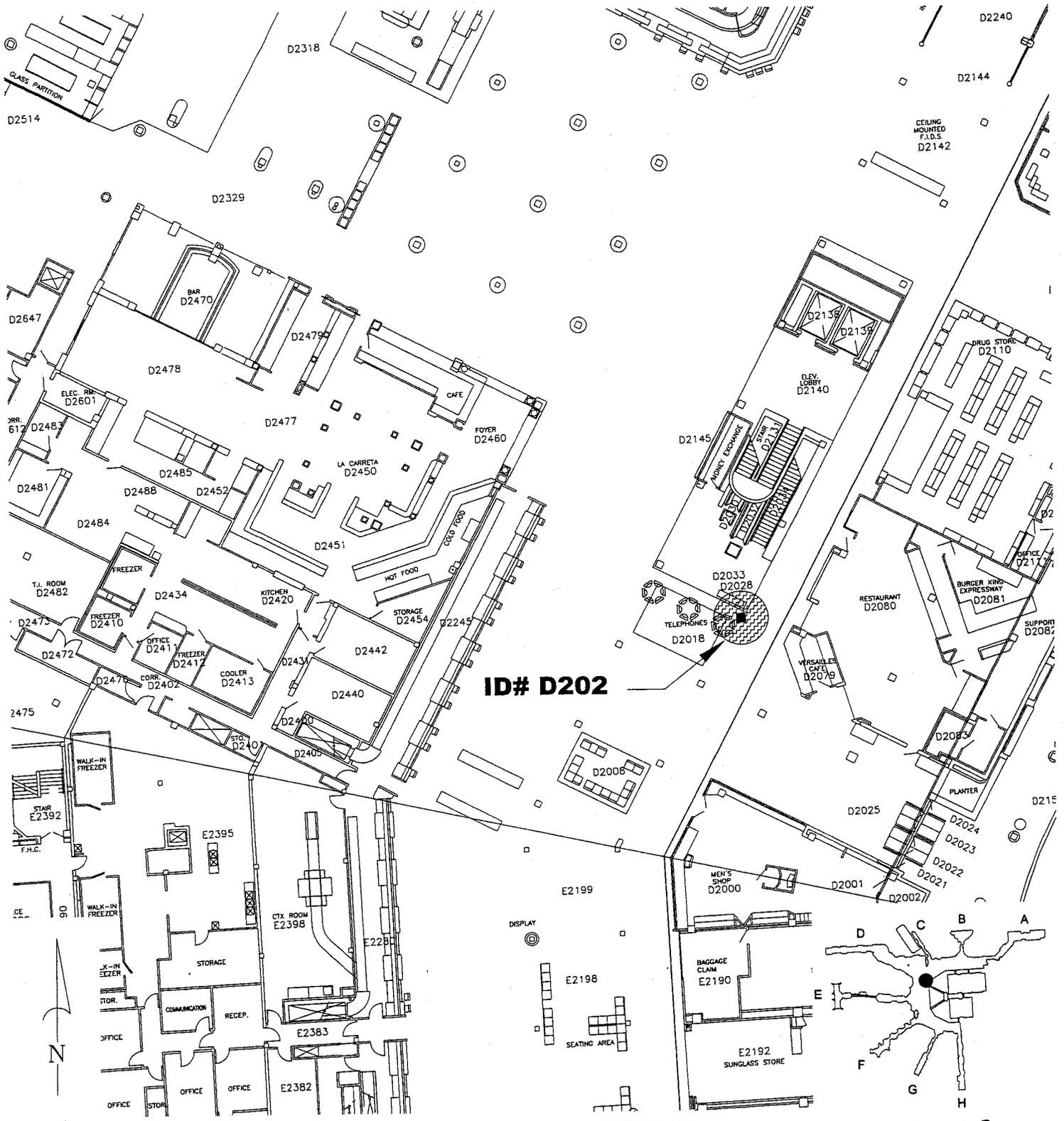
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

109



ID# D202

TERMINAL 'D' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

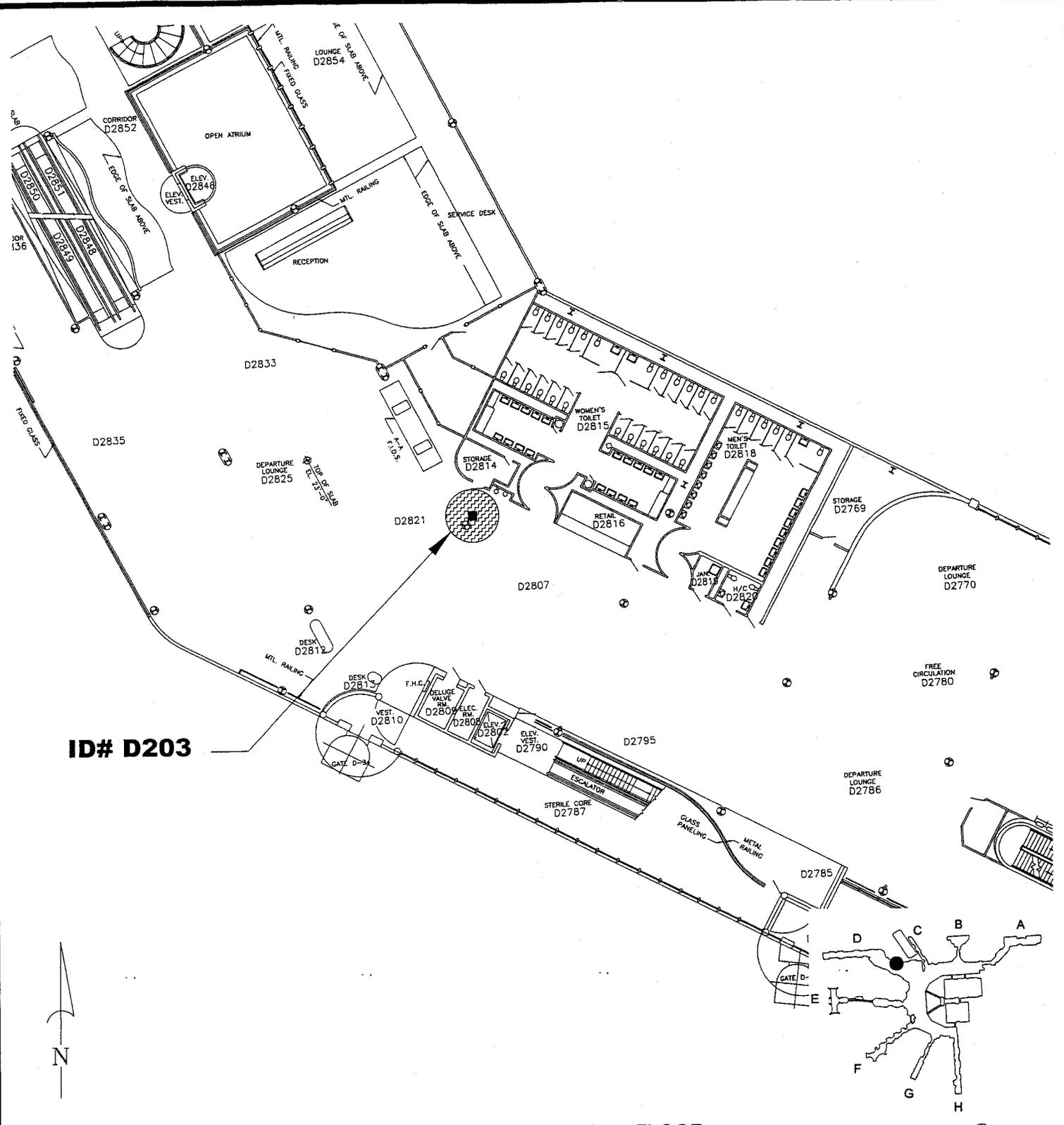
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

110



CONCOURSE 'D' - SECOND FLOOR

KEY MAP

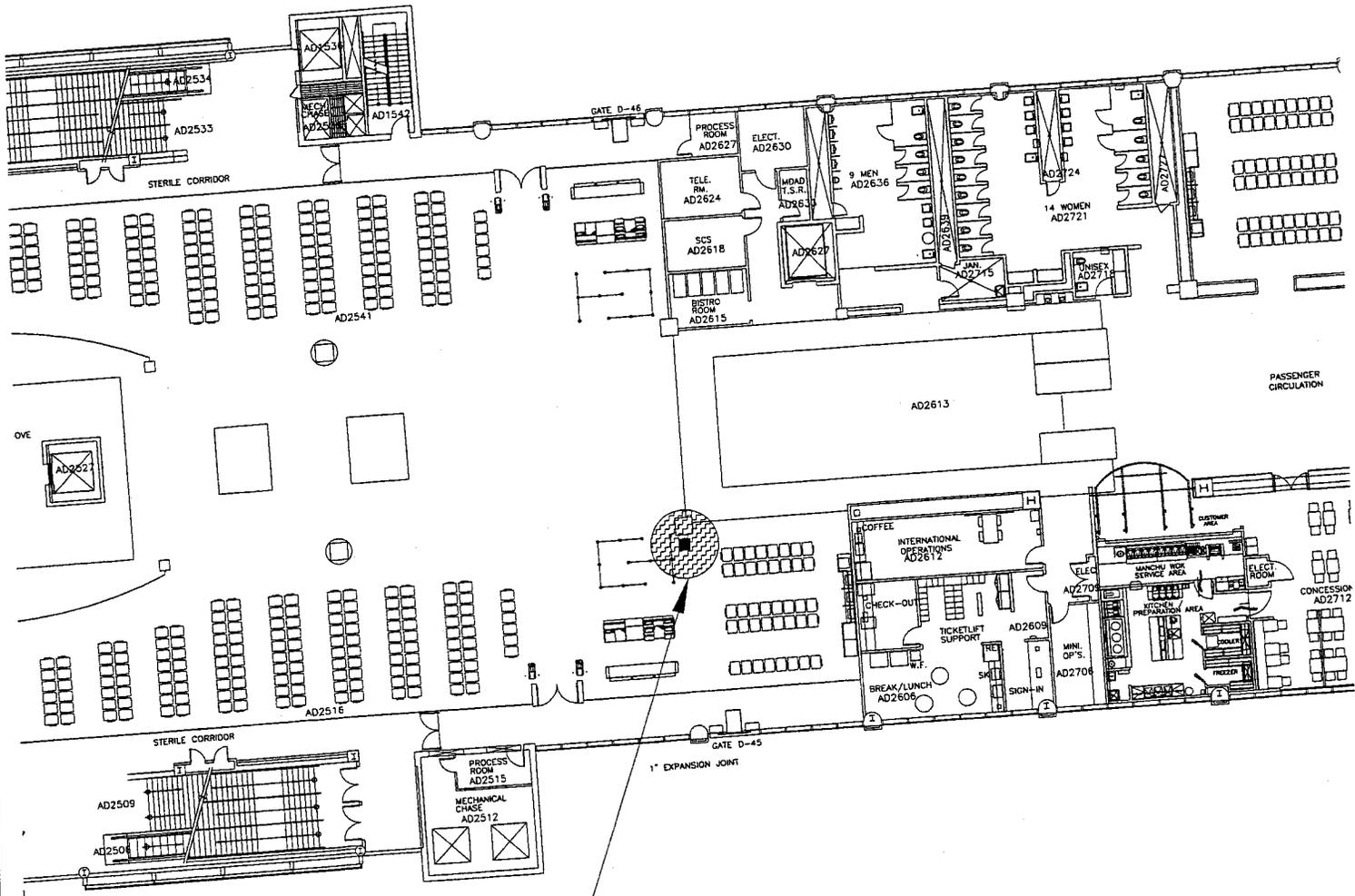
CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

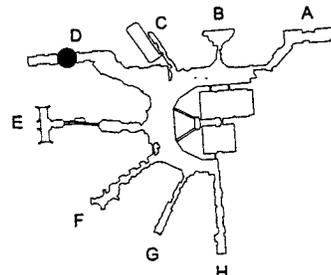
EXHIBIT A

PRE-PAID PHONE CARDS
 VENDING MACHINE ITB

11)



ID# D204



CONCOURSE 'D' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

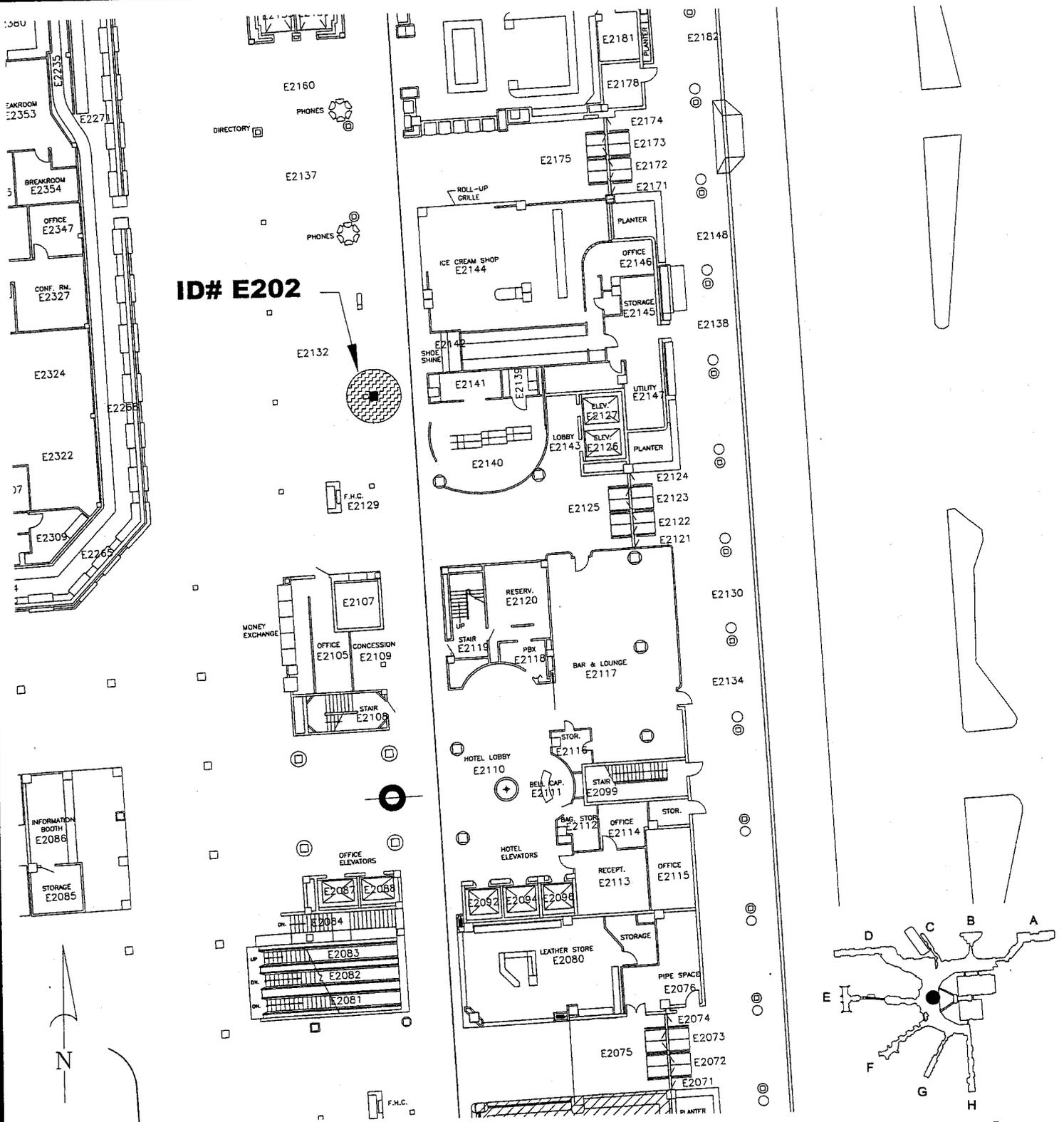
6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

112



TERMINAL 'E' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



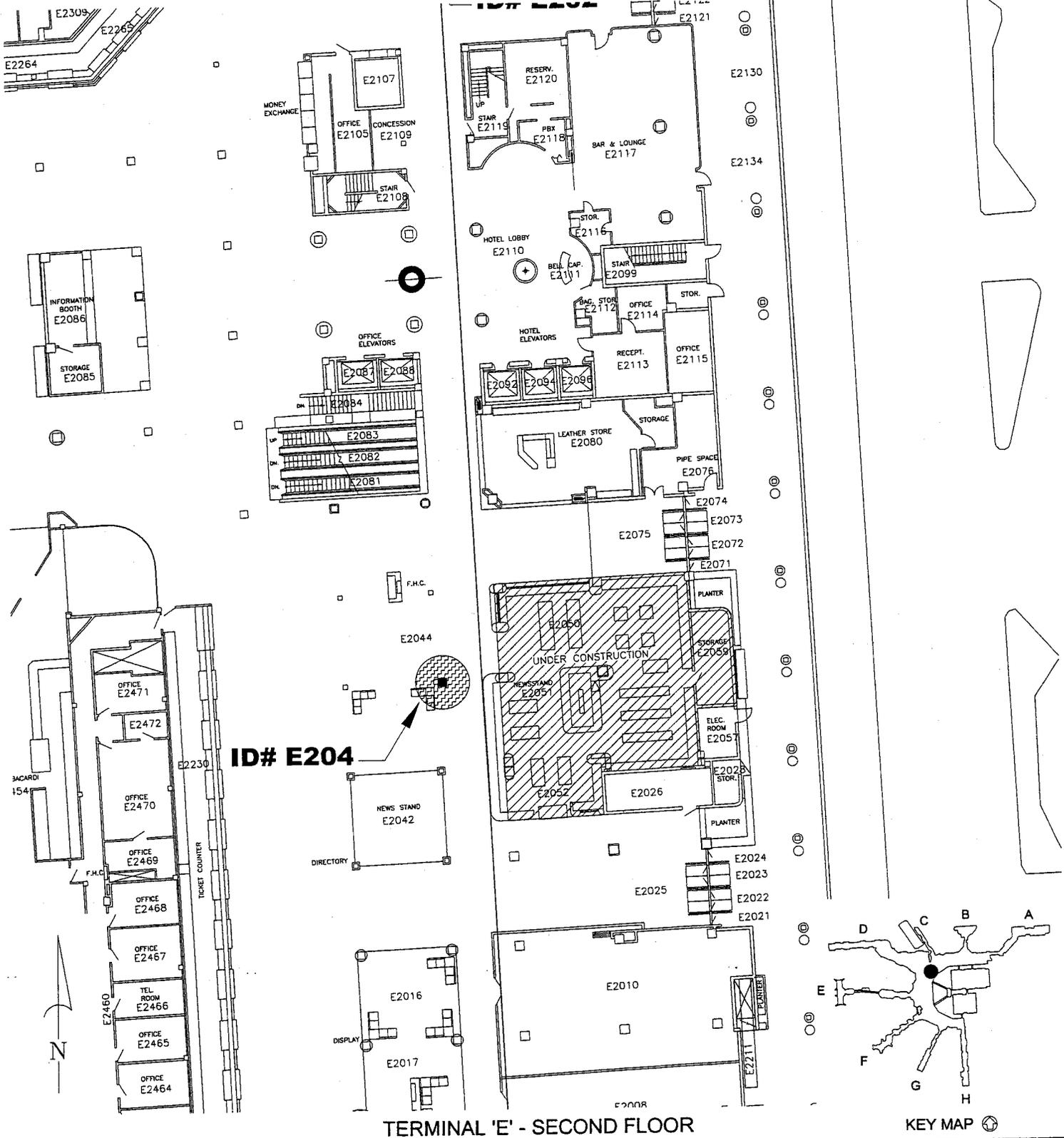
VENDING MACHINE (2' X 3') 6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

114



TERMINAL 'E' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

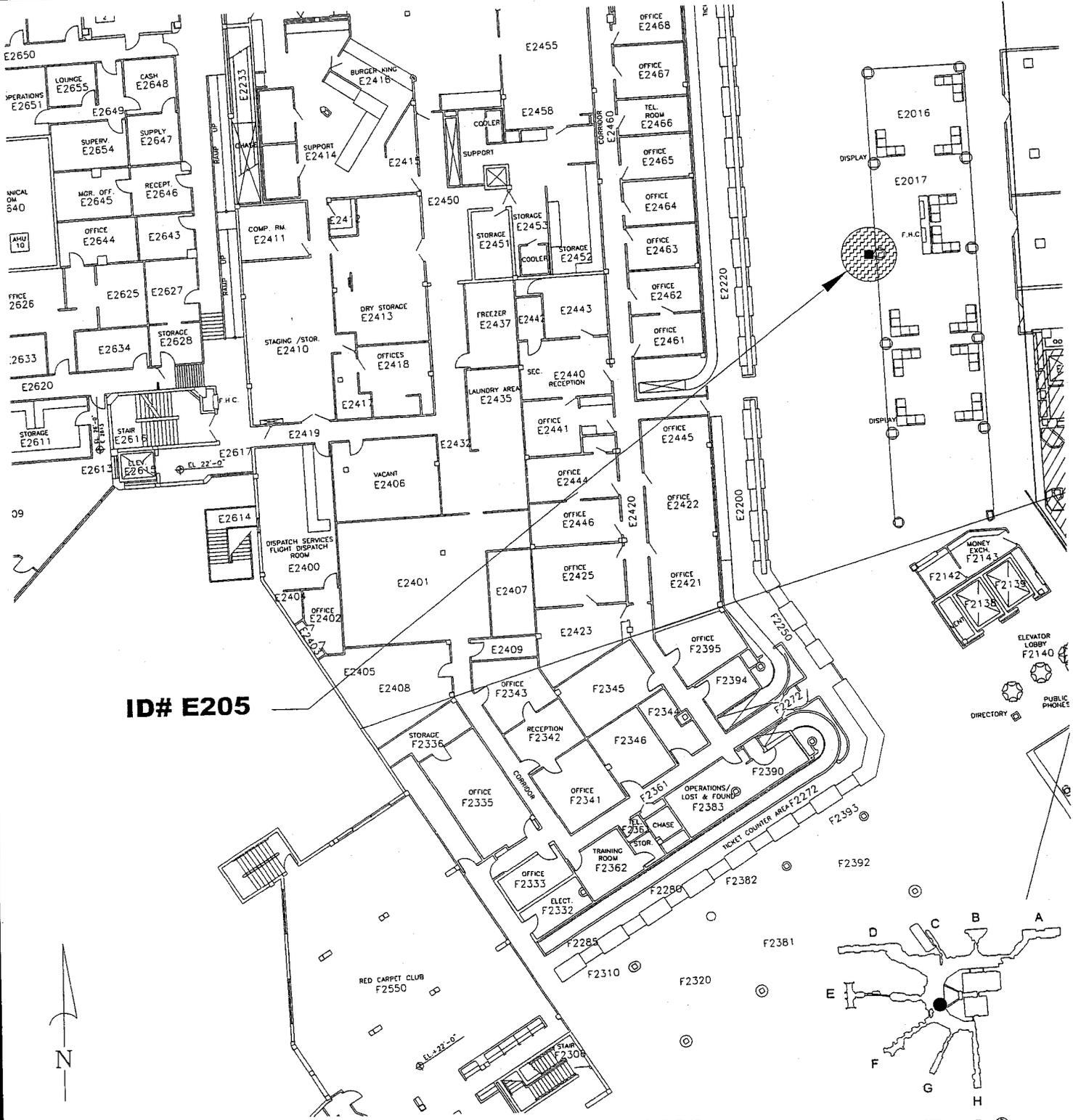
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

116



ID# E205

TERMINAL 'E' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

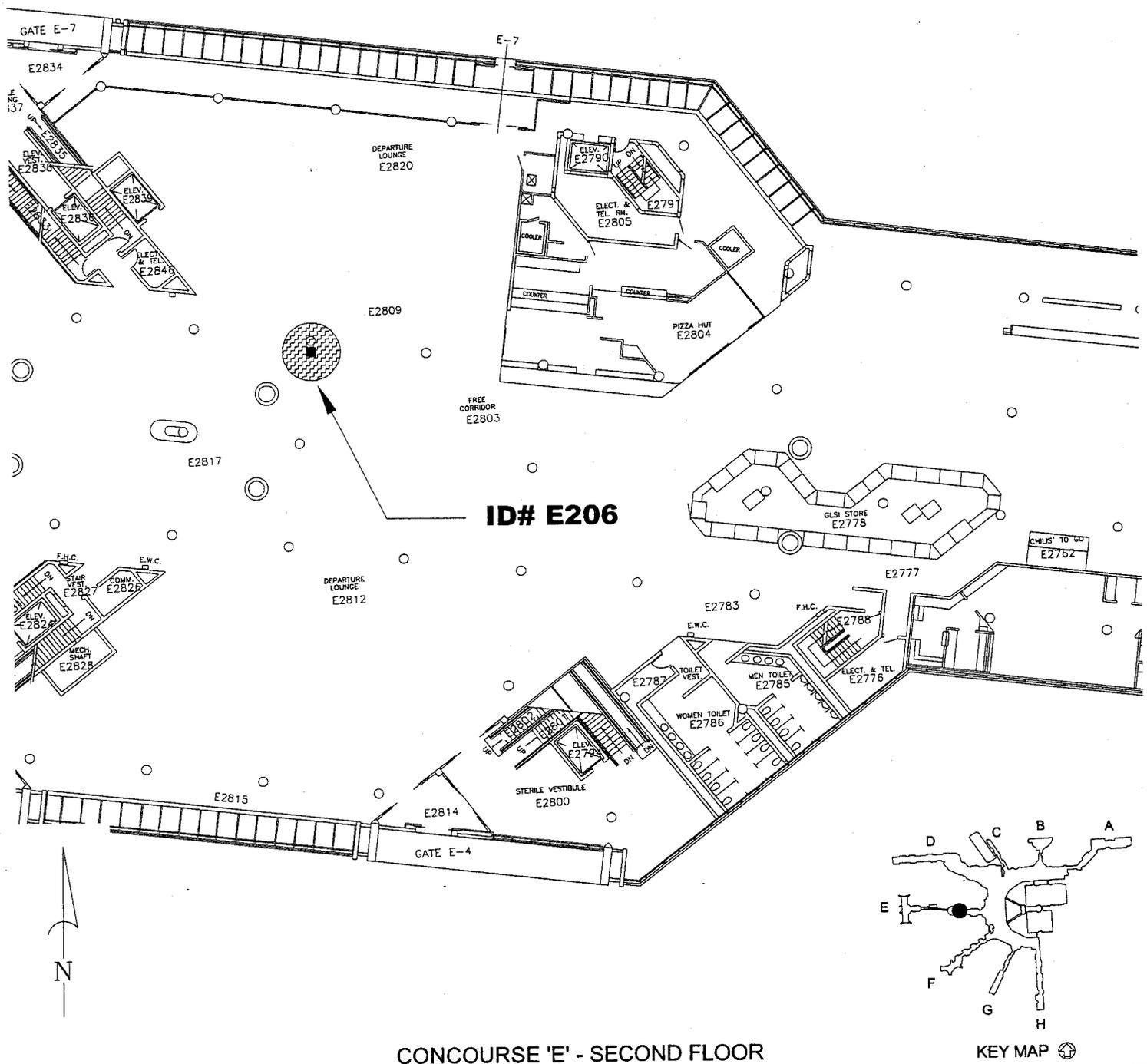
**EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

117

SCALE: 1/32" = 1'-0"

EFS #: PVS-E205

DATE: 2-09-05



CONCOURSE 'E' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

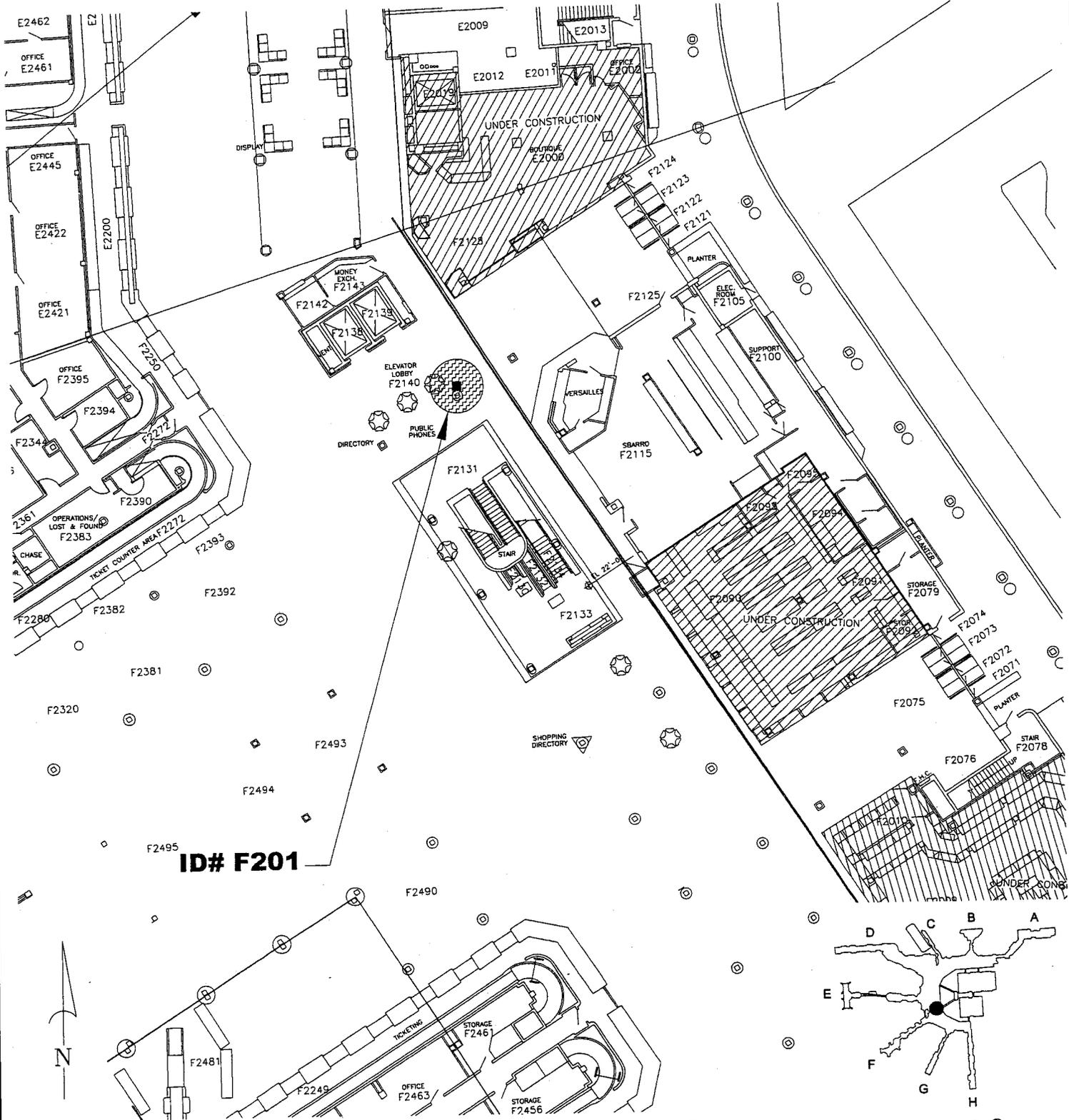
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

118



ID# F201

TERMINAL 'F' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

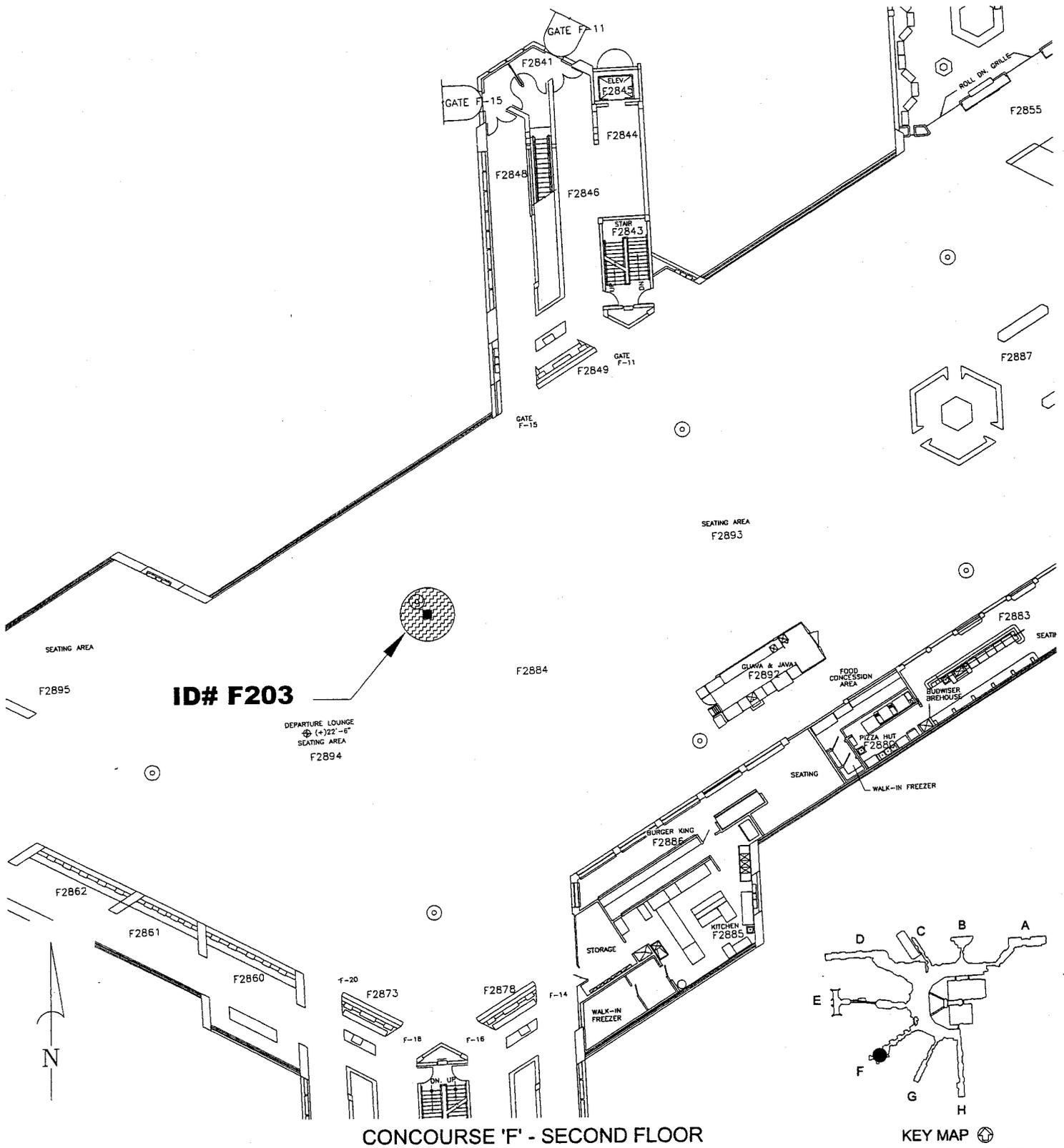
6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

119



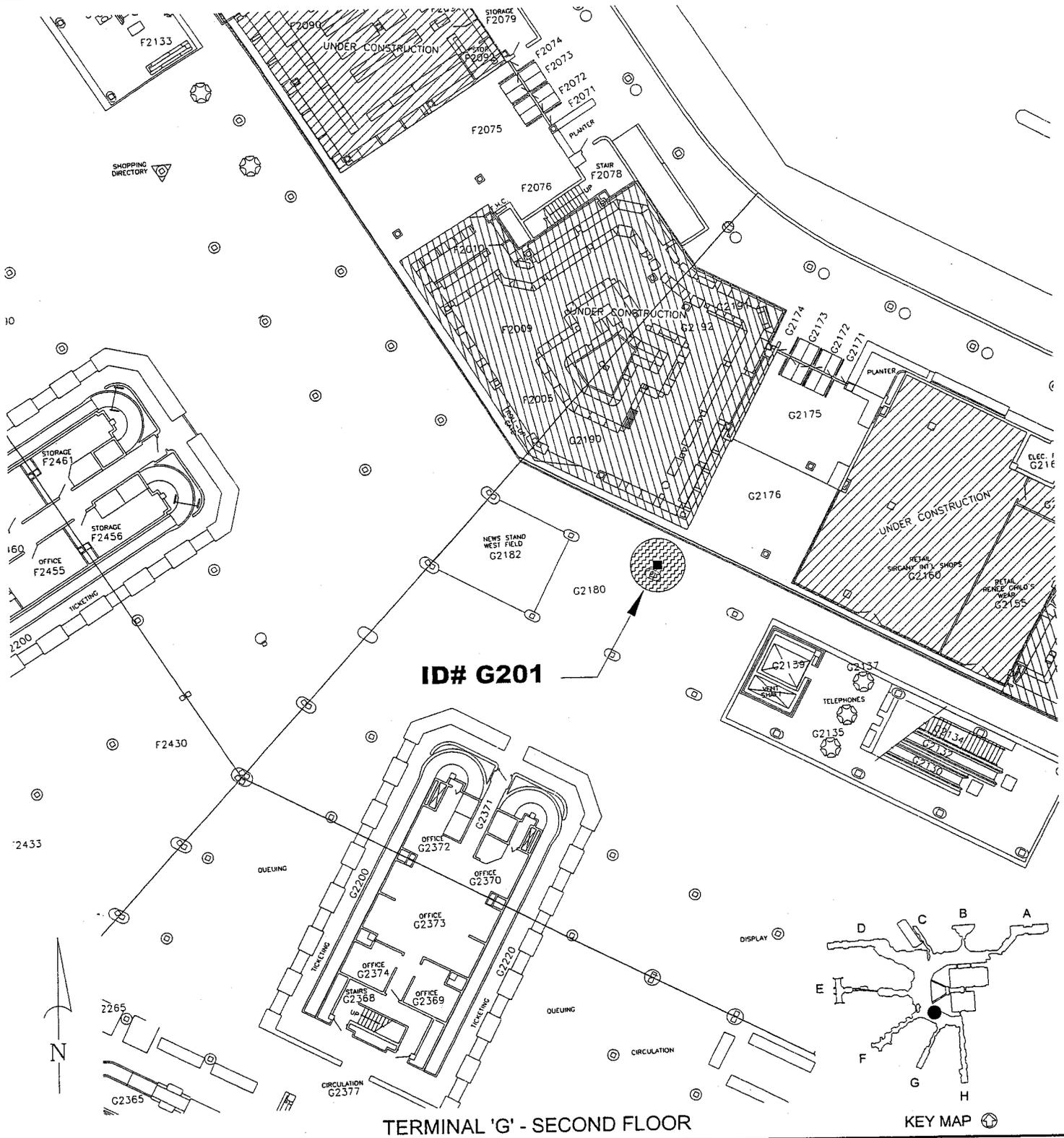
CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

121



ID# G201

TERMINAL 'G' - SECOND FLOOR

KEY MAP

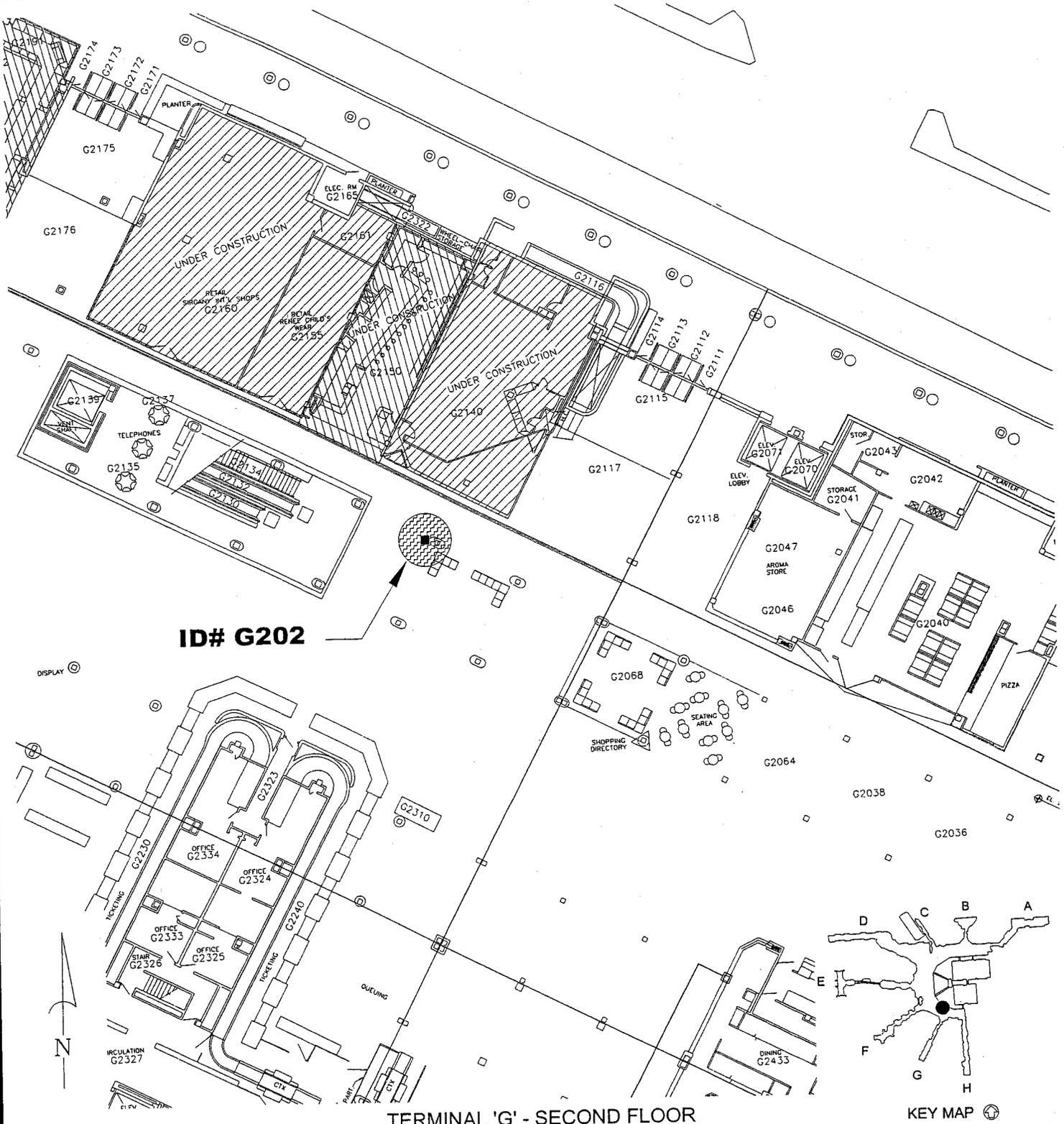
<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
	VENDING MACHINE (2' X 3')	6
SCALE: 1/32" = 1'-0"		
EFS #: PVS-G201		
DATE: 2-09-05		

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

PRE-PAID PHONE CARDS
VENDING MACHINE ITB

122



ID# G202

TERMINAL 'G' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

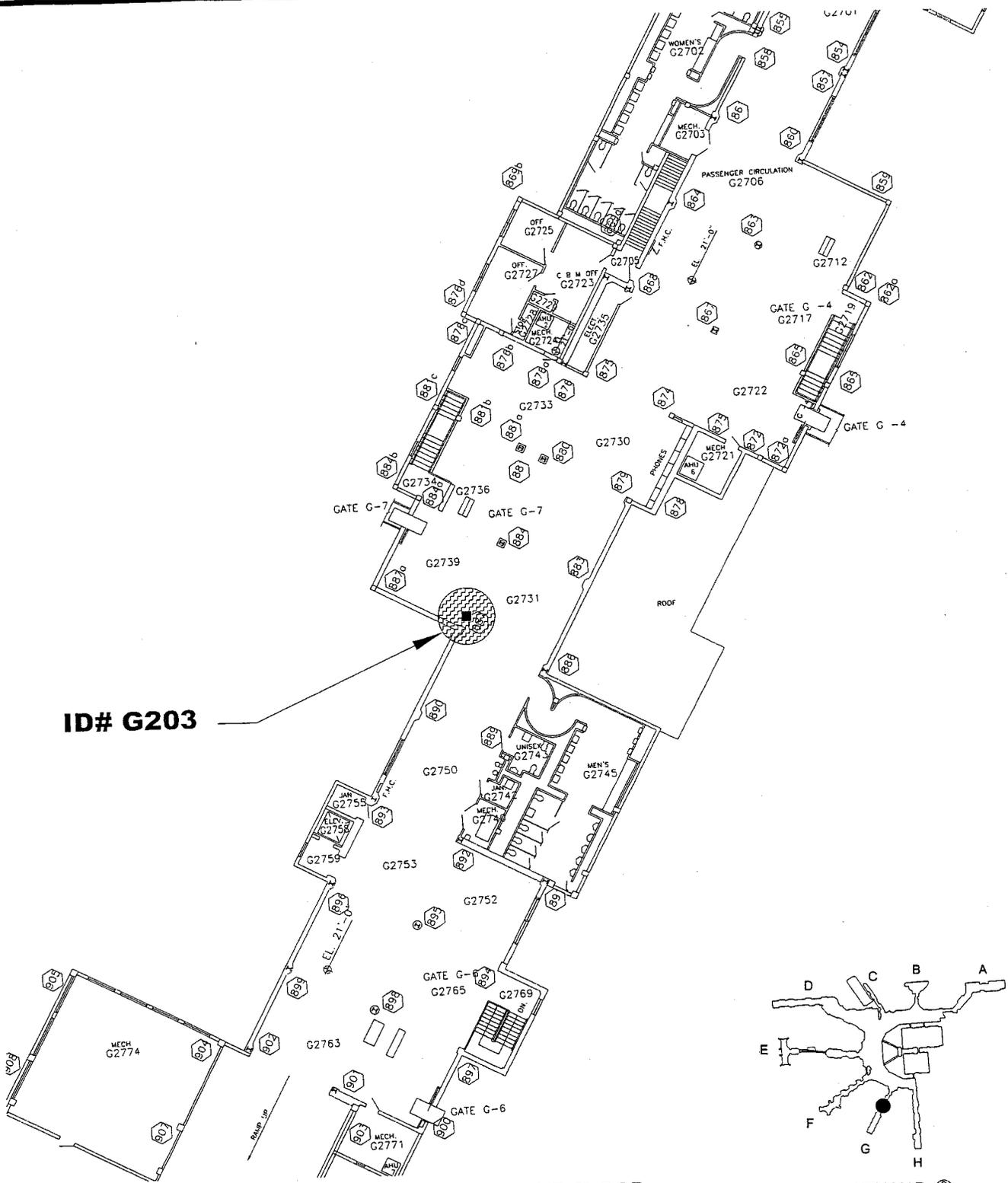
6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

**EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

123

SCALE: 1/32" = 1'-0" EFS #: PVS-G202 DATE: 2-09-05



ID# G203

CONCOURSE 'G' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

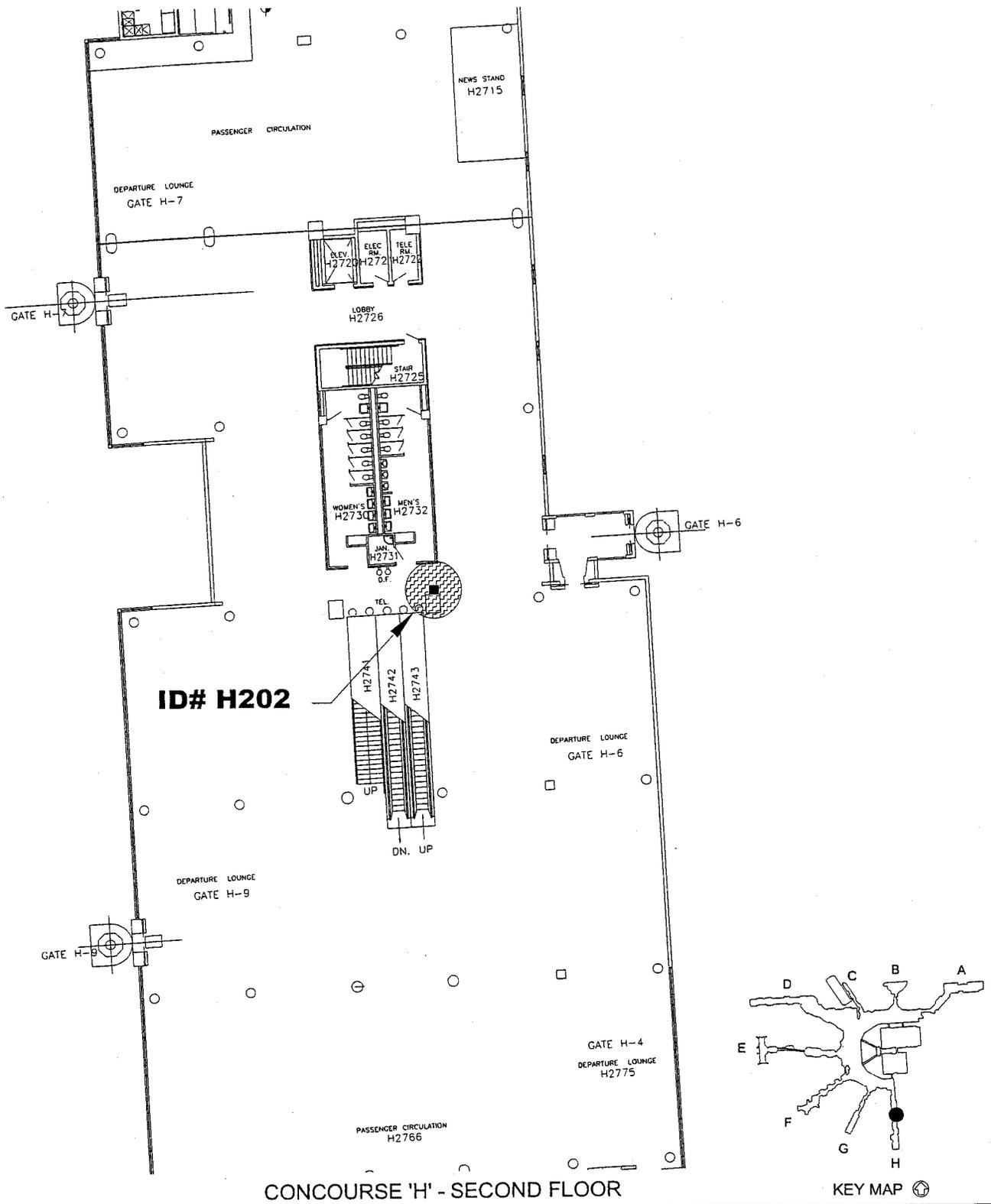
**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

124

SCALE: 1/32" = 1'-0"

EFS #: PVS-G203

DATE: 2-09-05



CONCOURSE 'H' - SECOND FLOOR

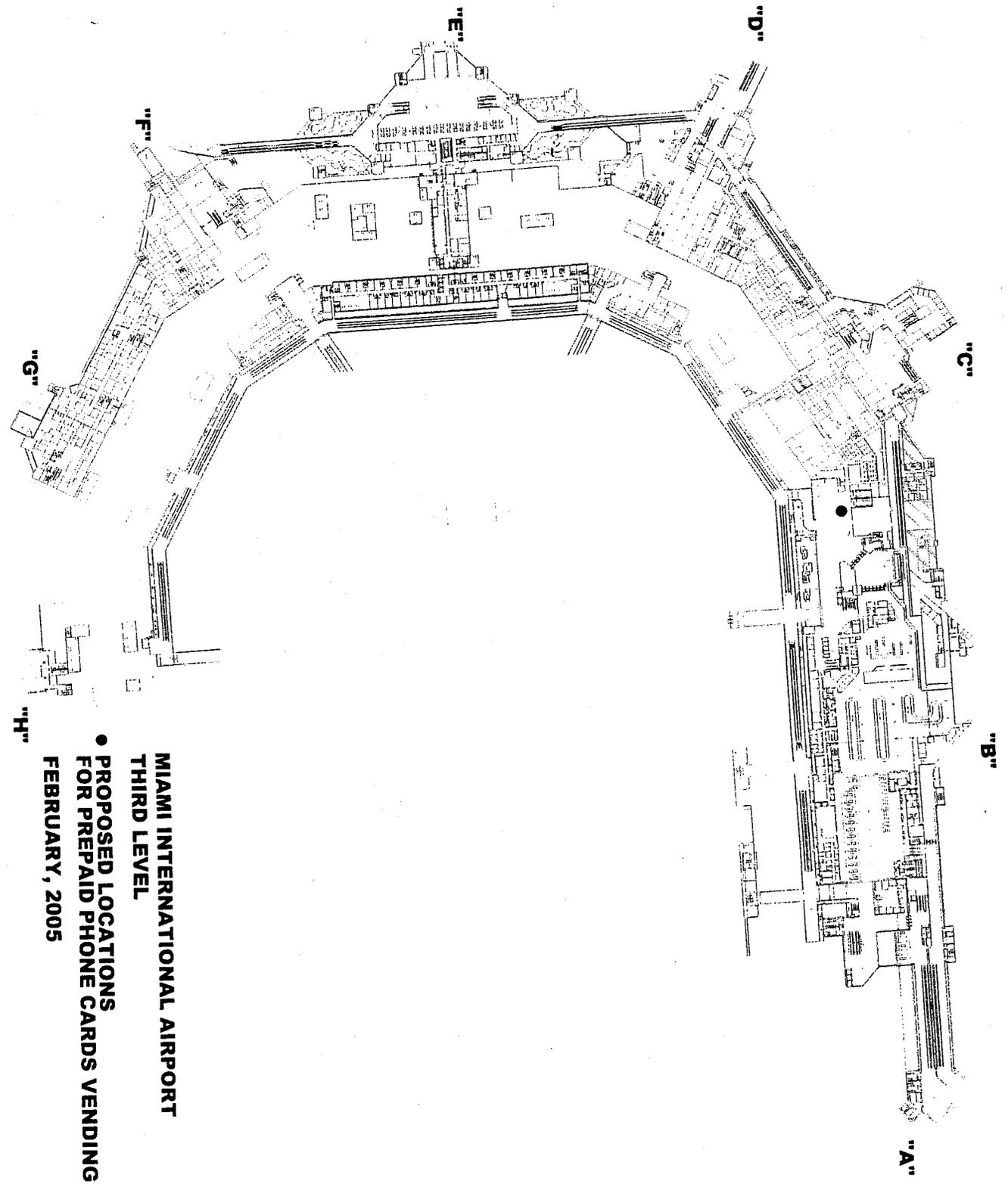
KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

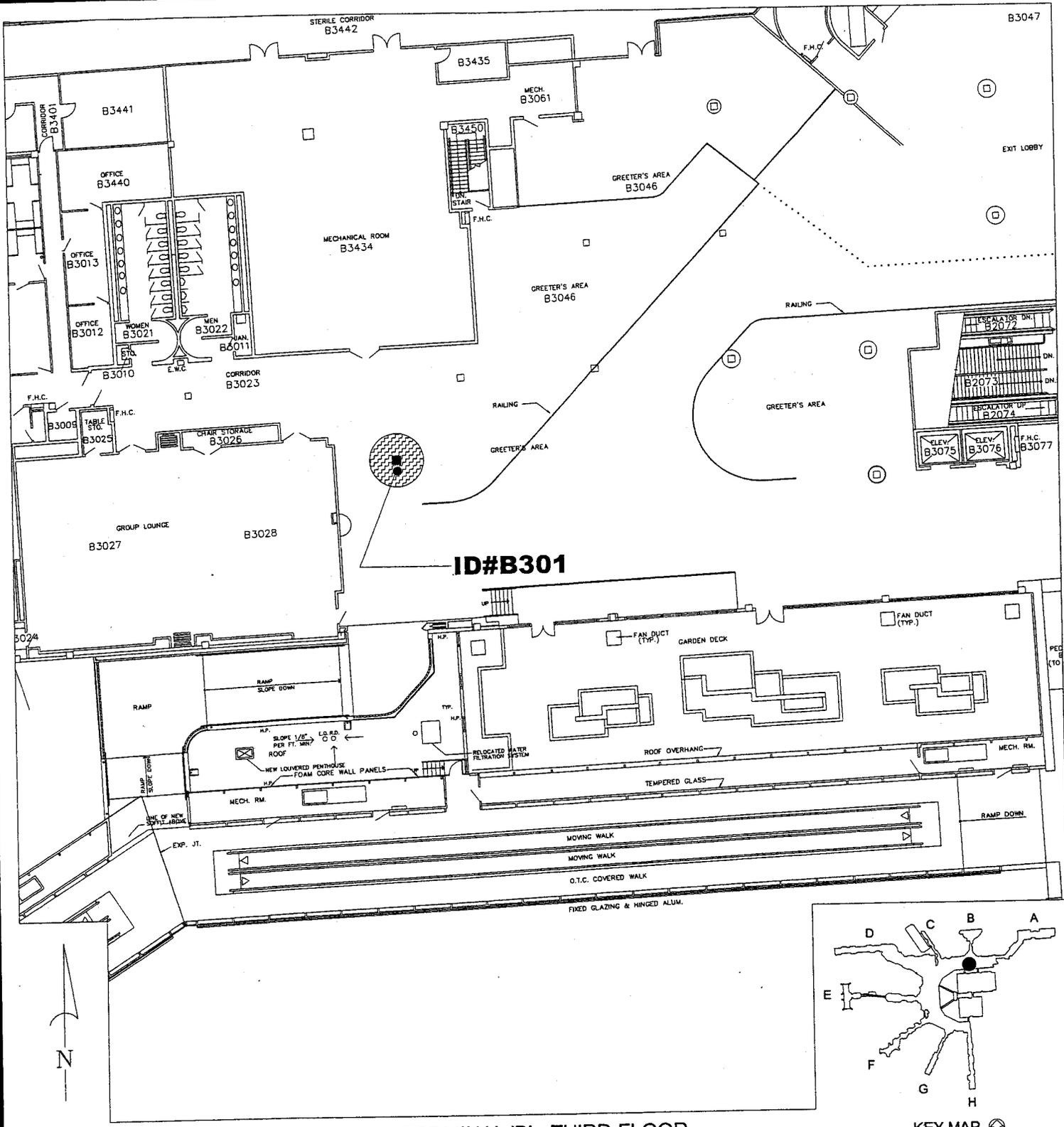
EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

126



**MIAMI INTERNATIONAL AIRPORT
THIRD LEVEL**

● **PROPOSED LOCATIONS
FOR PREPAID PHONE CARDS VENDING MACHINE ITB
FEBRUARY, 2005**



TERMINAL 'B' - THIRD FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

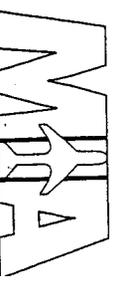
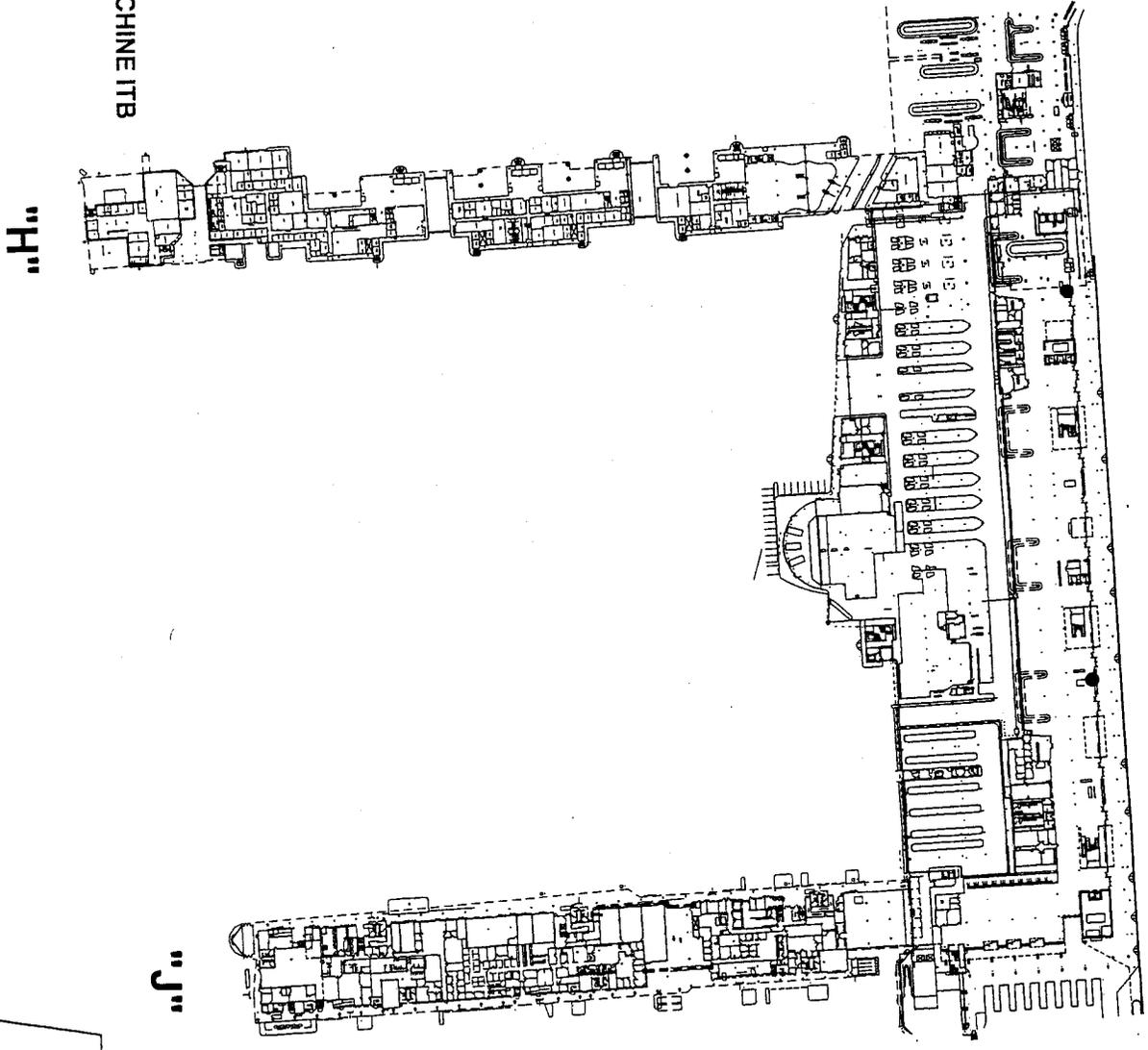
EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

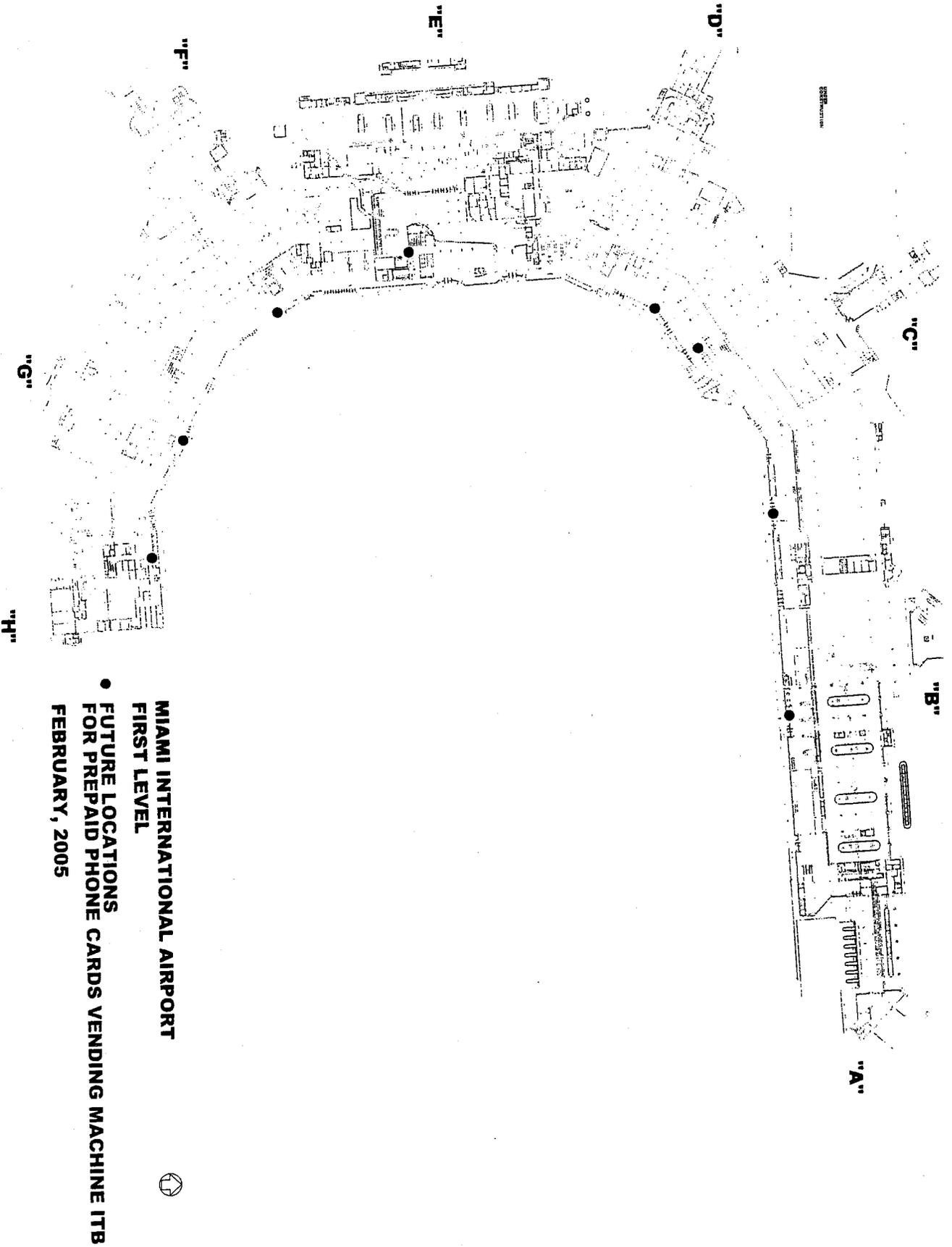
129

EXHIBIT A
PHONE CARD LOCATIONS

MIAMI INTERNATIONAL AIRPORT
SOUTH TERMINAL DEVELOPMENT
FIRST LEVEL
● FUTURE LOCATIONS
FOR PREPAID PHONE CARDS VENDING MACHINE ITB
FEBRUARY, 2005

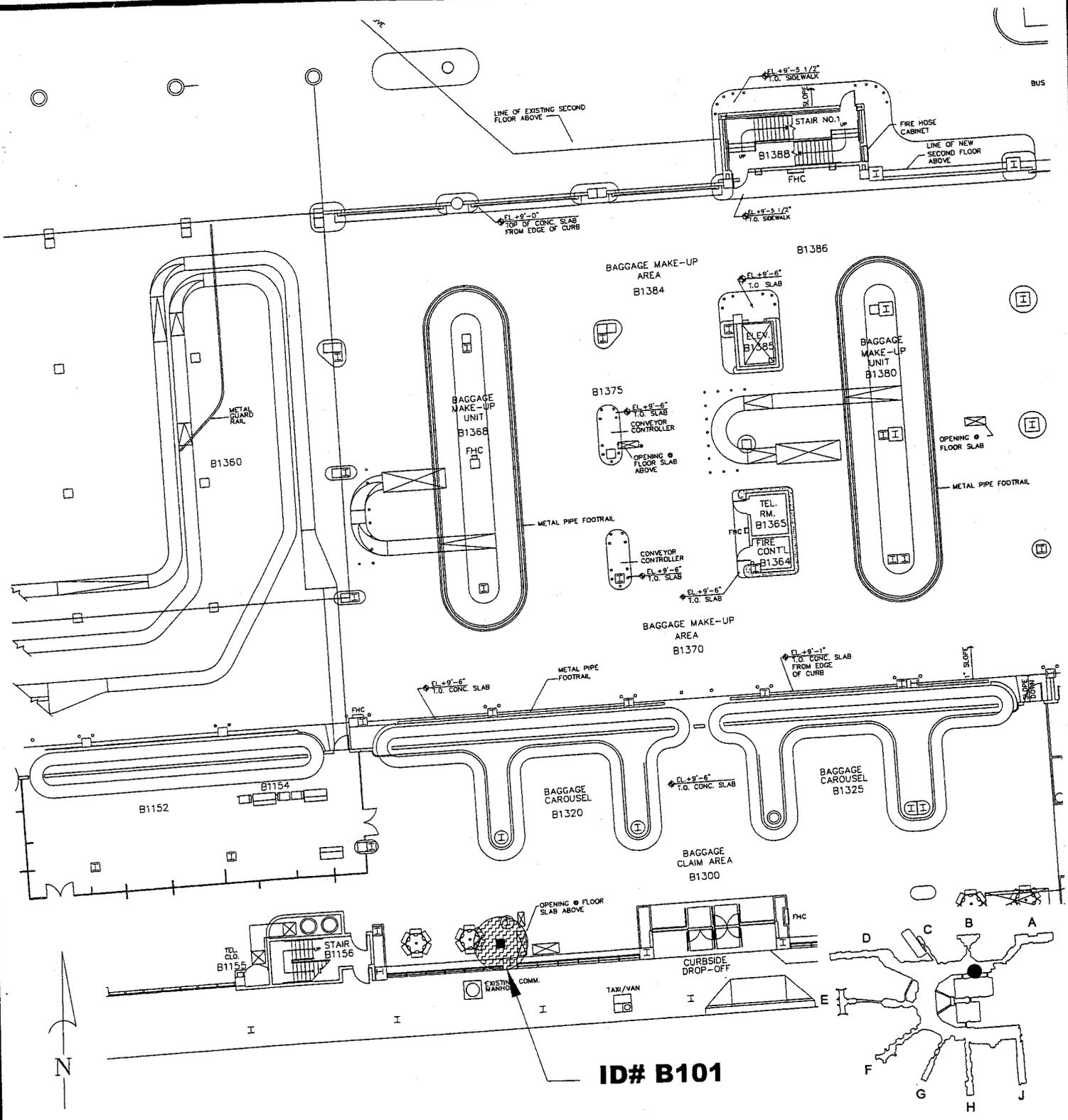


TECHNICAL SUPPORT DIVISION



● MIAMI INTERNATIONAL AIRPORT
 FIRST LEVEL
 ● FUTURE LOCATIONS
 FOR PREPAID PHONE CARDS VENDING MACHINE ITB
 FEBRUARY, 2005





ID# B101

TERMINAL 'B' - FIRST LEVEL

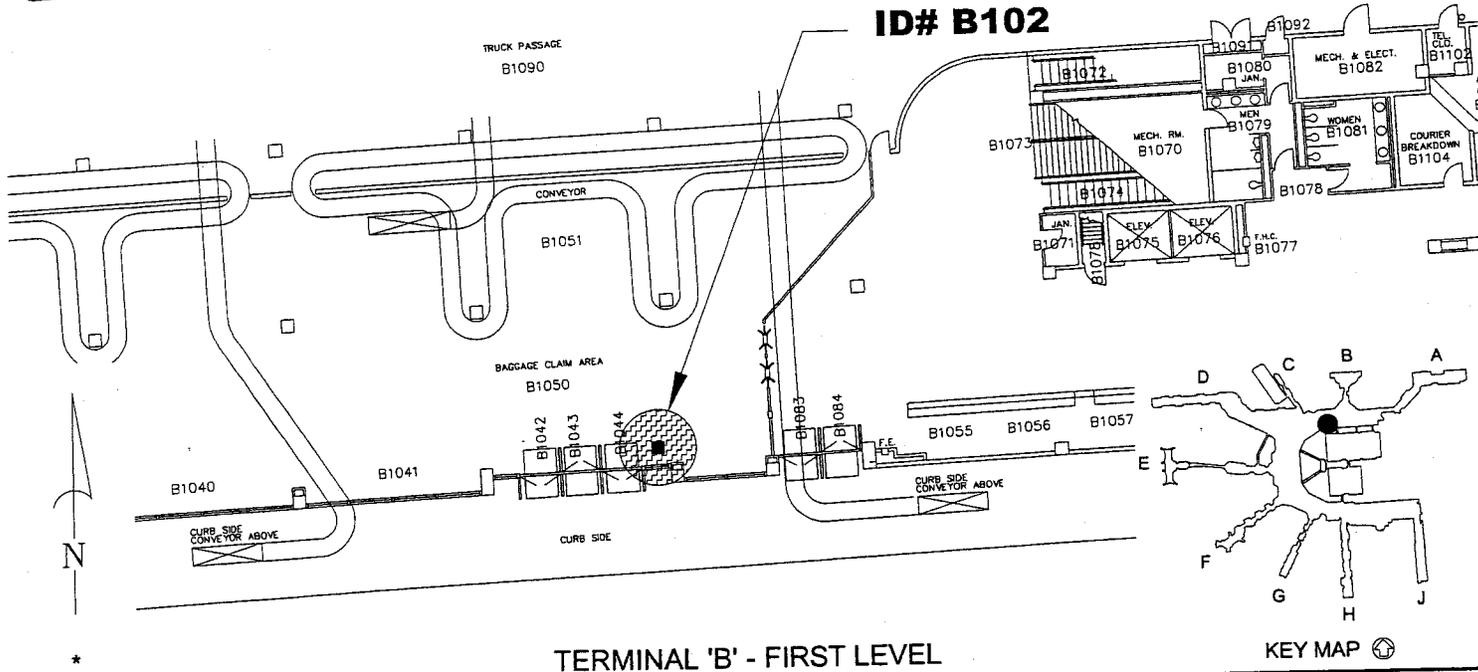
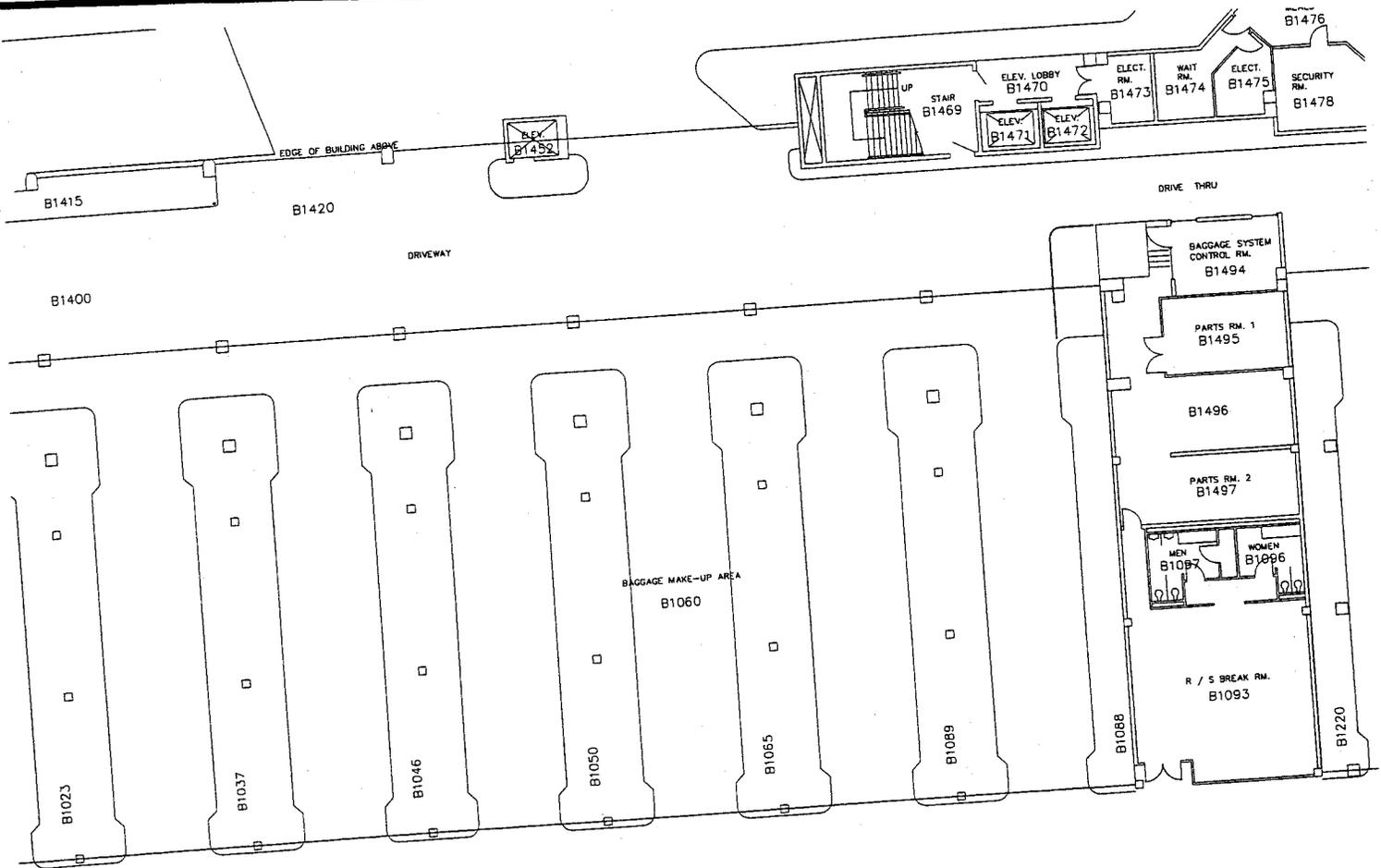
KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' x 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

133



TERMINAL 'B' - FIRST LEVEL

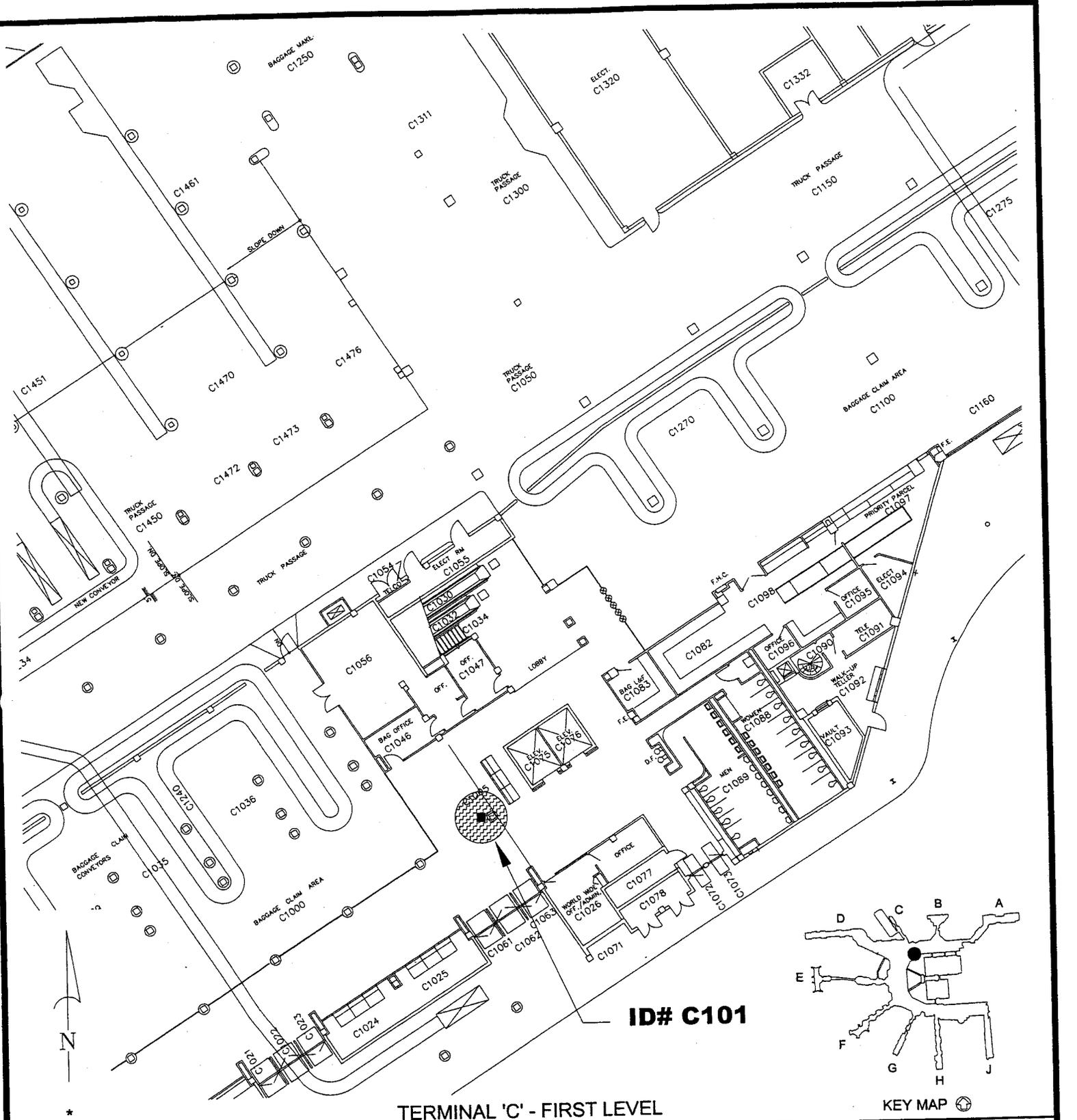
KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' x 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

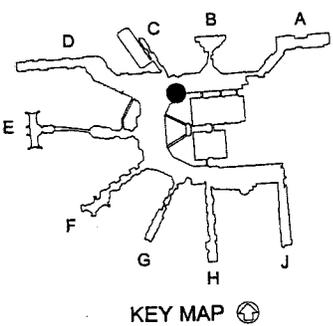
EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

134



TERMINAL 'C' - FIRST LEVEL

ID# C101

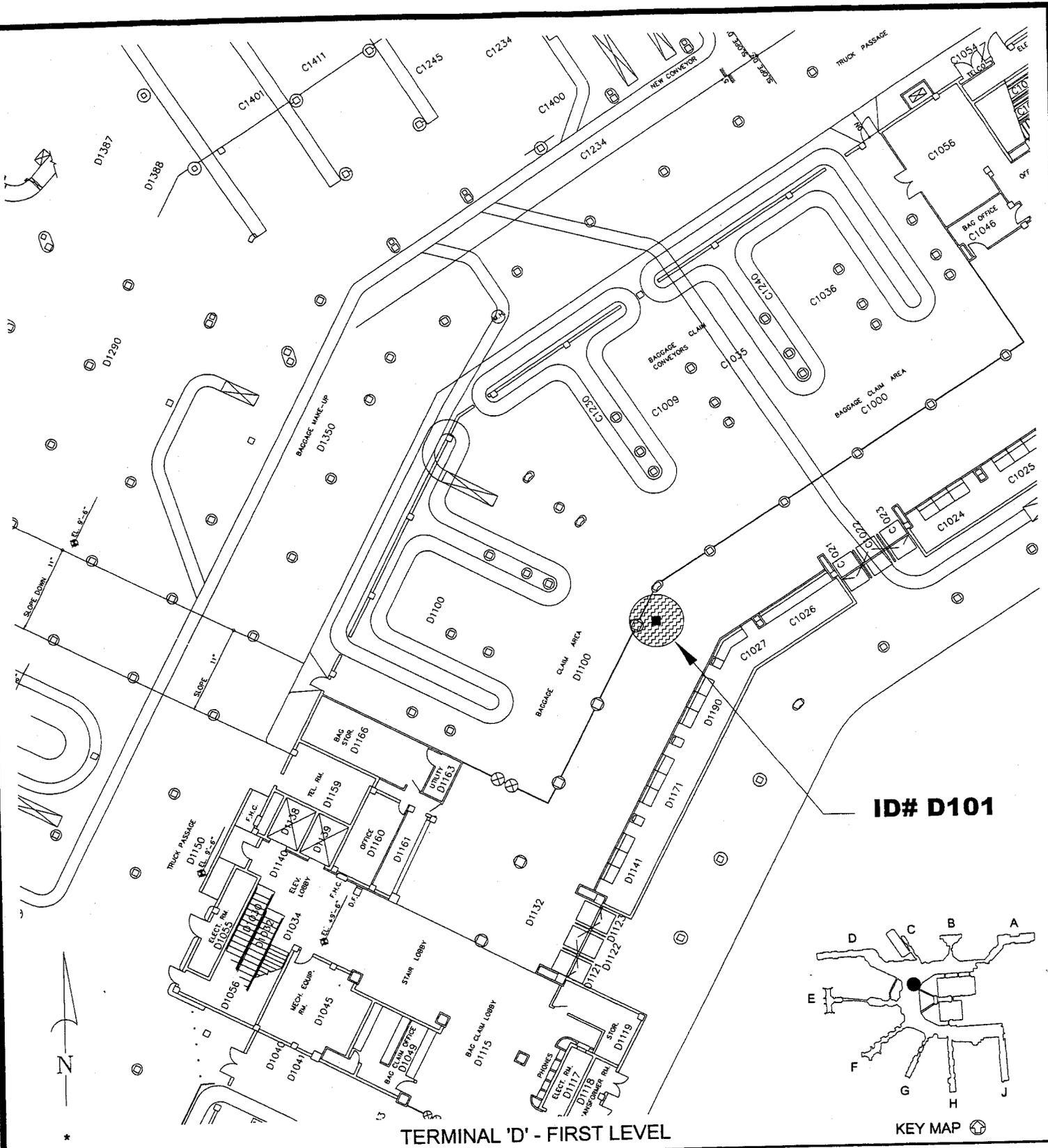


CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' x 3')	6

135

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB



ID# D101

TERMINAL 'D' - FIRST LEVEL

KEY MAP

CODE:

SPACE CLASS

SQ. FT.



VENDING MACHINE (2' x 3')

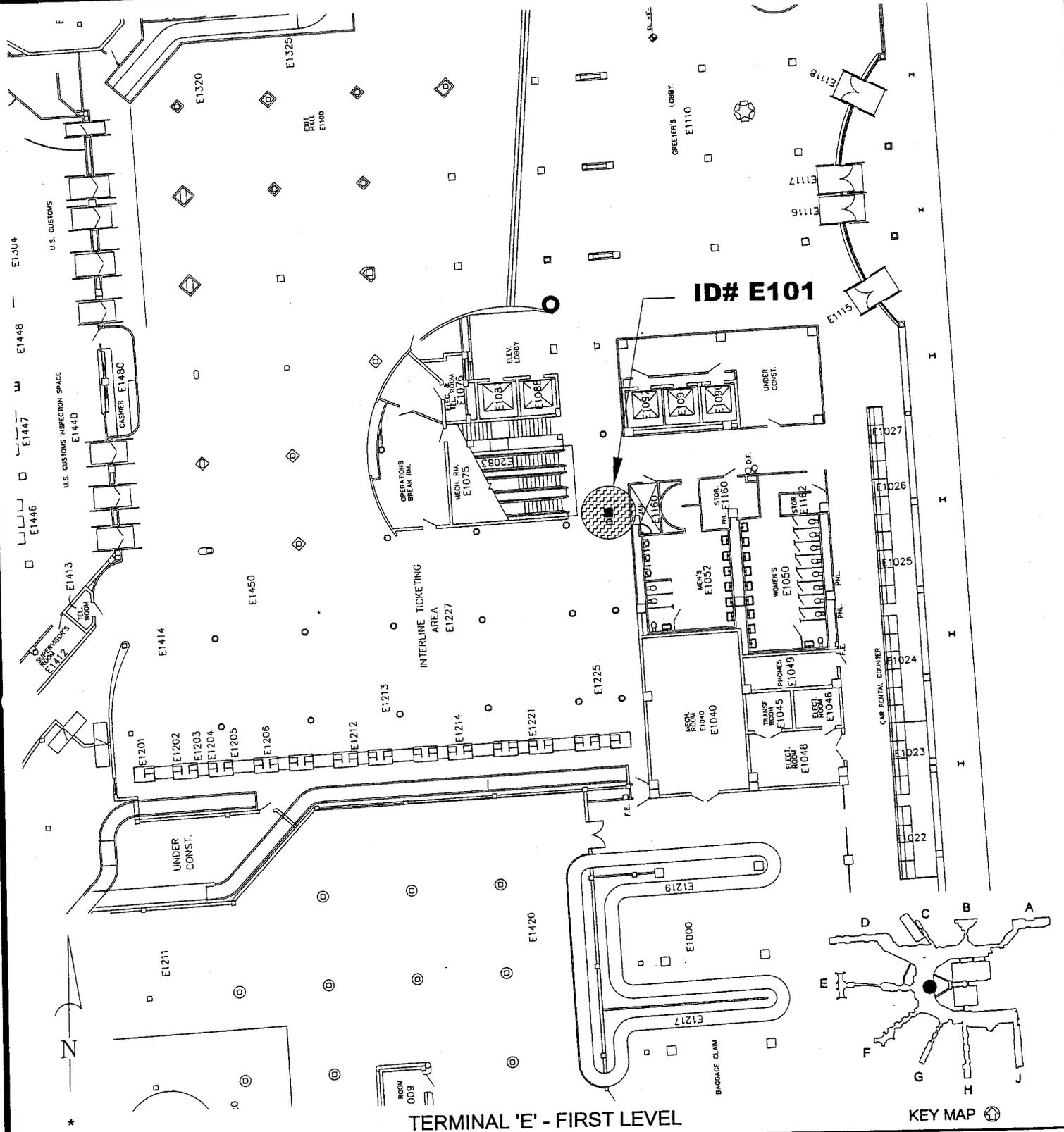
6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

136



TERMINAL 'E' - FIRST LEVEL

KEY MAP

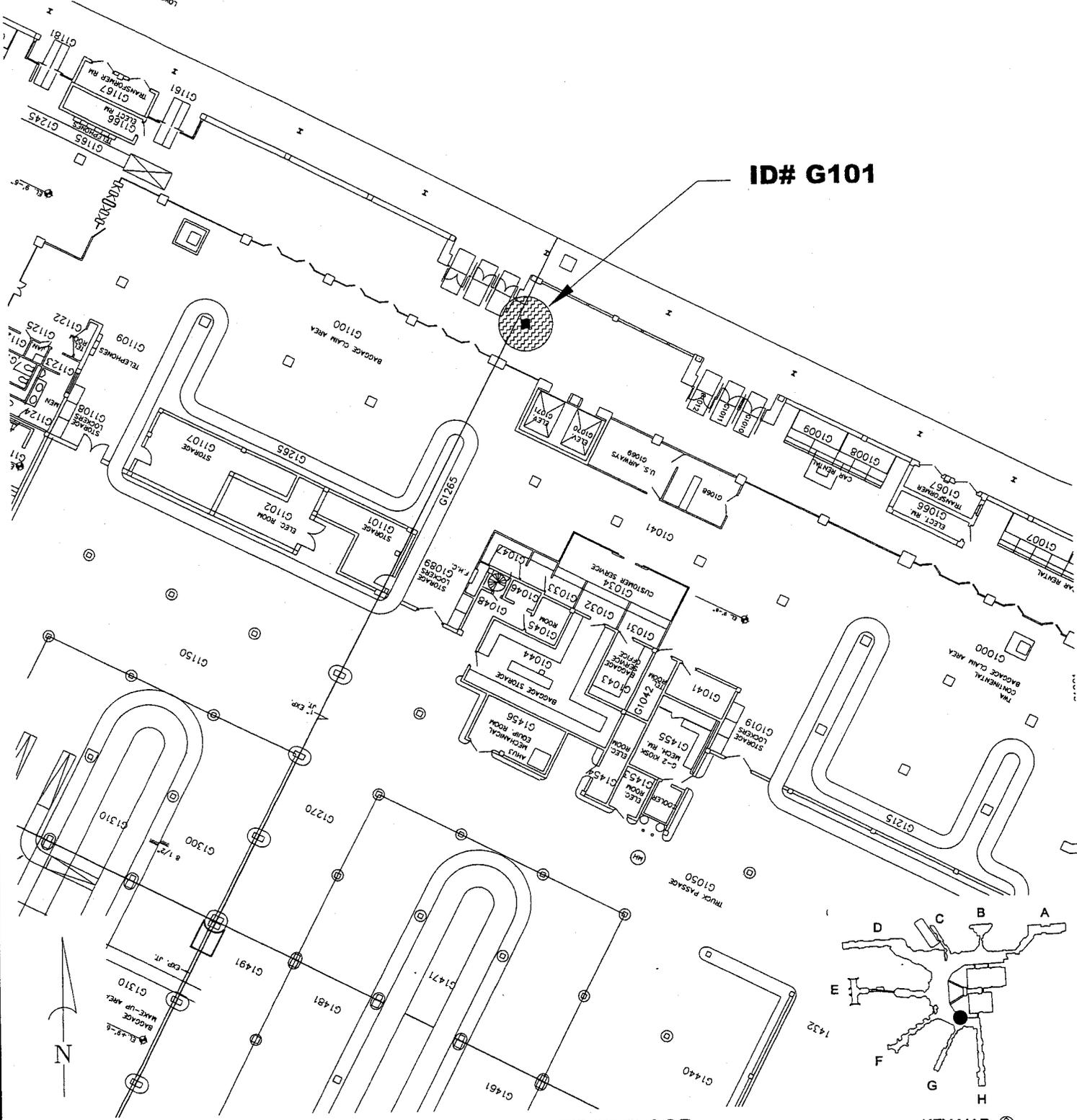
CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' x 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

137

ID# G101



TERMINAL 'G' - FIRST FLOOR

KEY MAP

<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
	VENDING MACHINE (2' X 3')	6

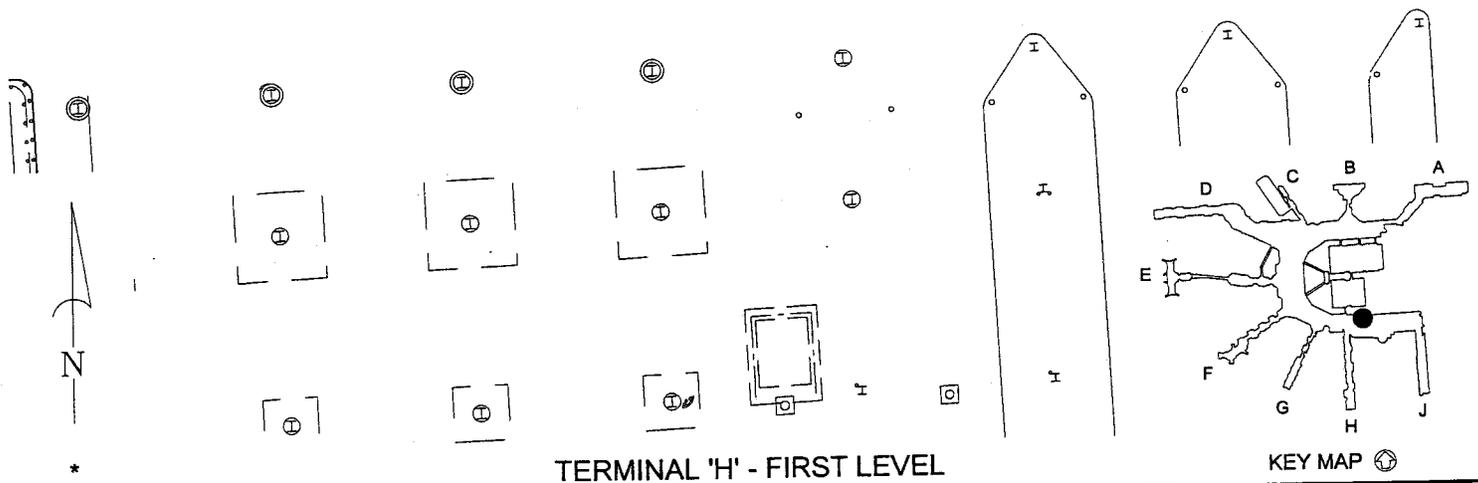
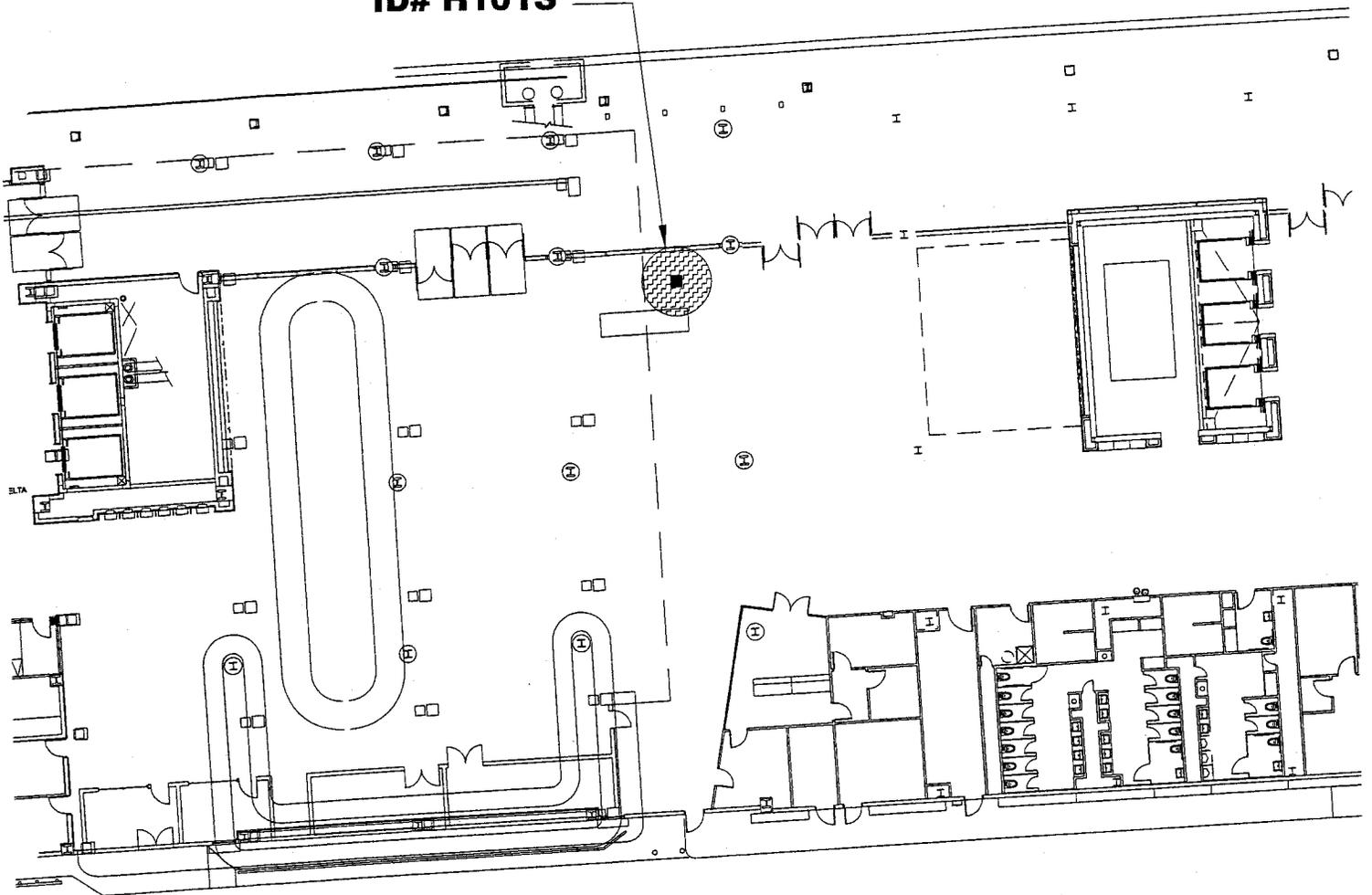
**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

139

ID# H101S



TERMINAL 'H' - FIRST LEVEL

KEY MAP

CODE:

SPACE CLASS

SQ. FT.



VENDING MACHINE (2' x 3')

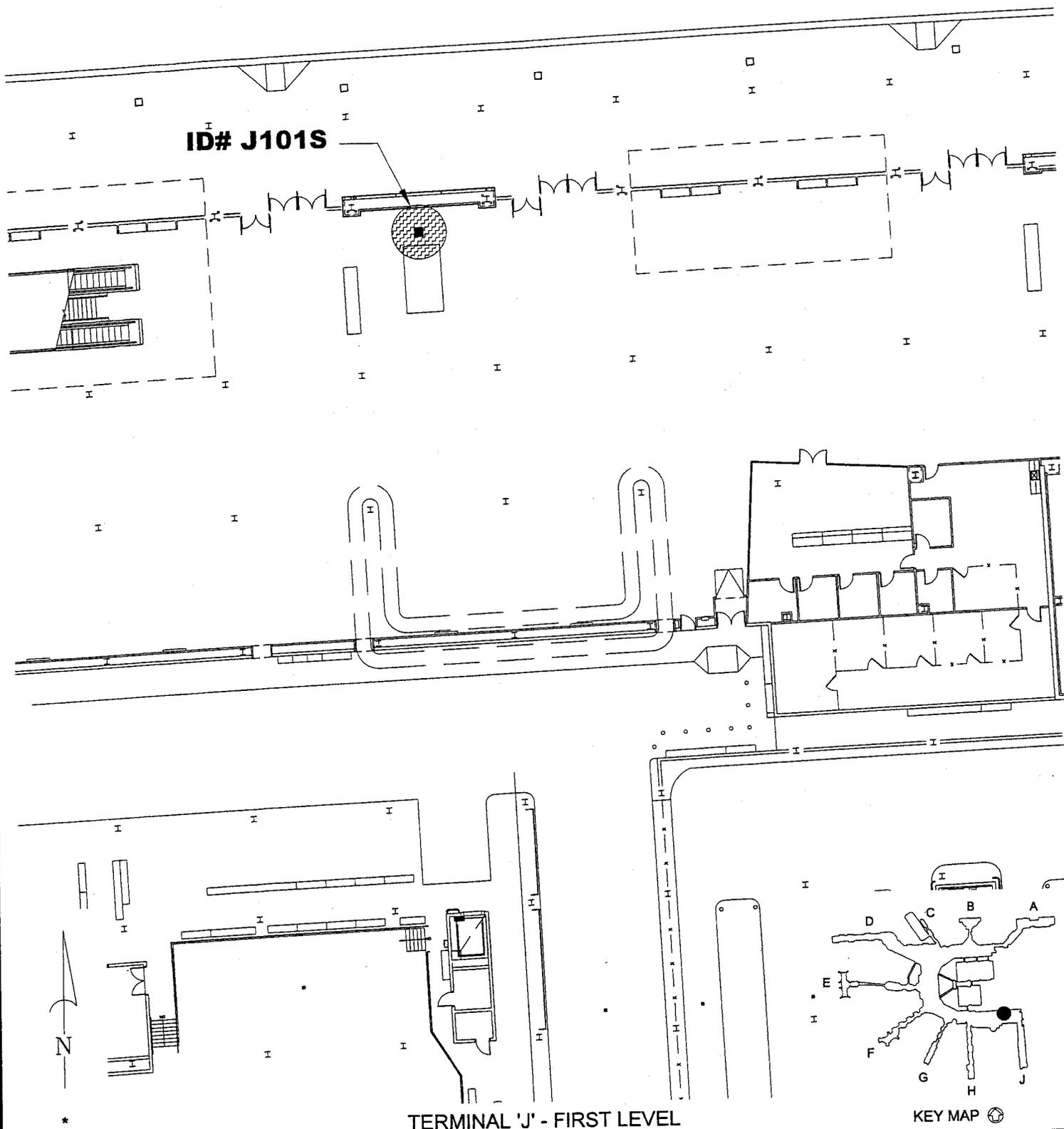
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

PRE-PAID PHONE CARDS
VENDING MACHINE ITB

141



TERMINAL 'J' - FIRST LEVEL

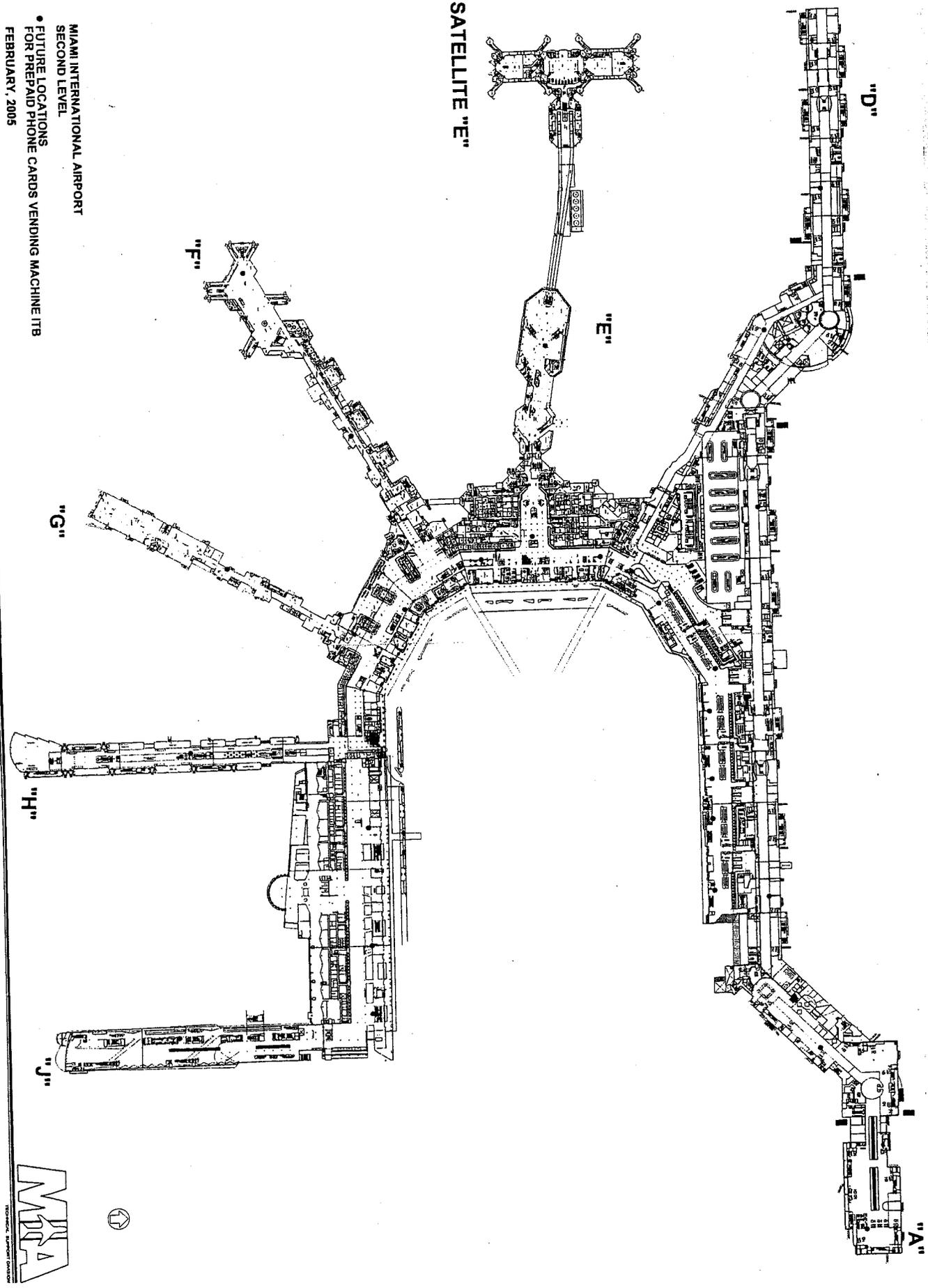
KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' x 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

142

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB



SATELLITE "E"

"D"

"E"

"F"

"G"

"H"

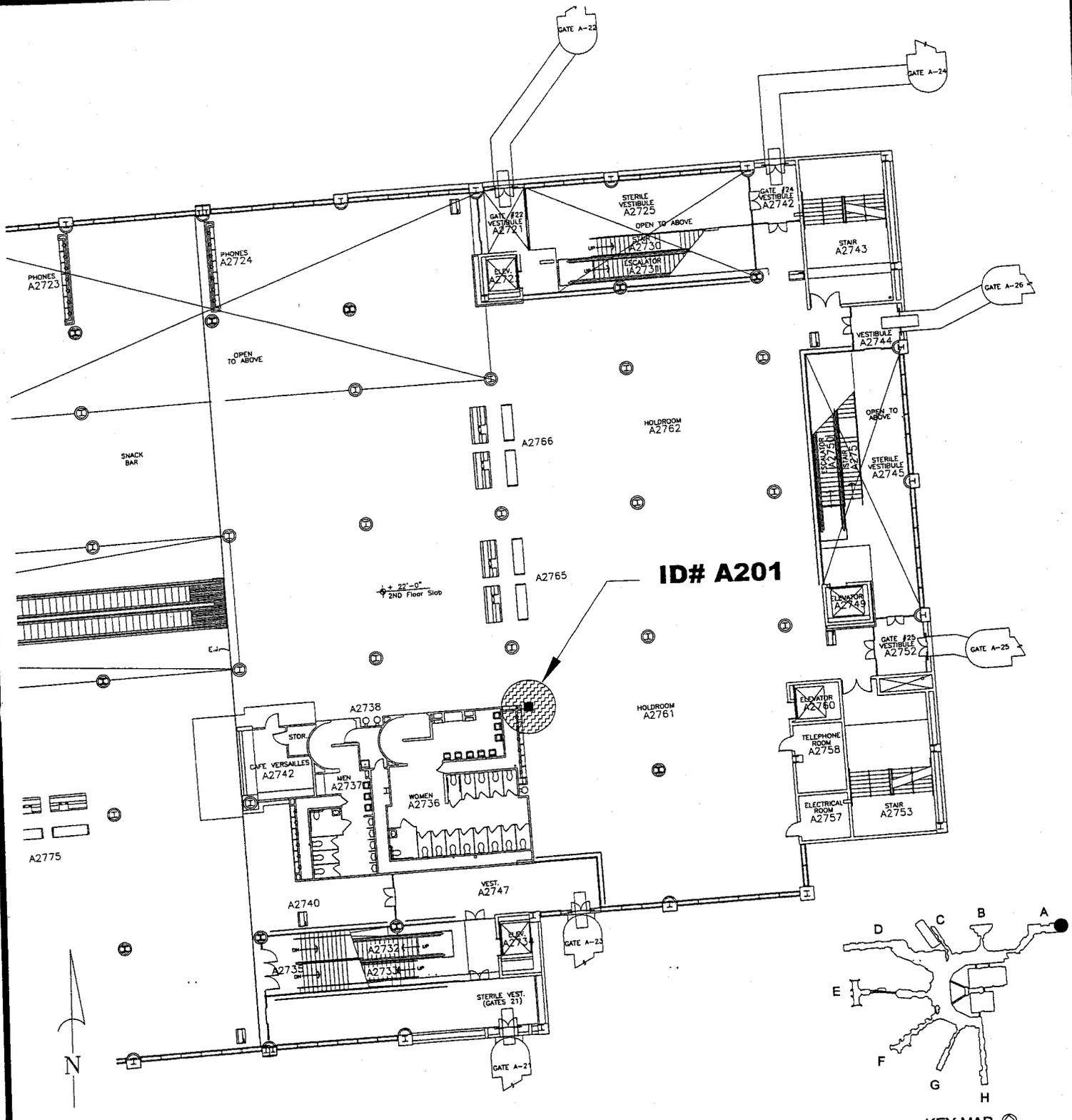
"J"

"A"

MIAMI INTERNATIONAL AIRPORT
 SECOND LEVEL
 • FUTURE LOCATIONS
 FOR PREPAID PHONE CARDS VENDING MACHINE ITB
 FEBRUARY, 2005



143



CONCOURSE 'A' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.

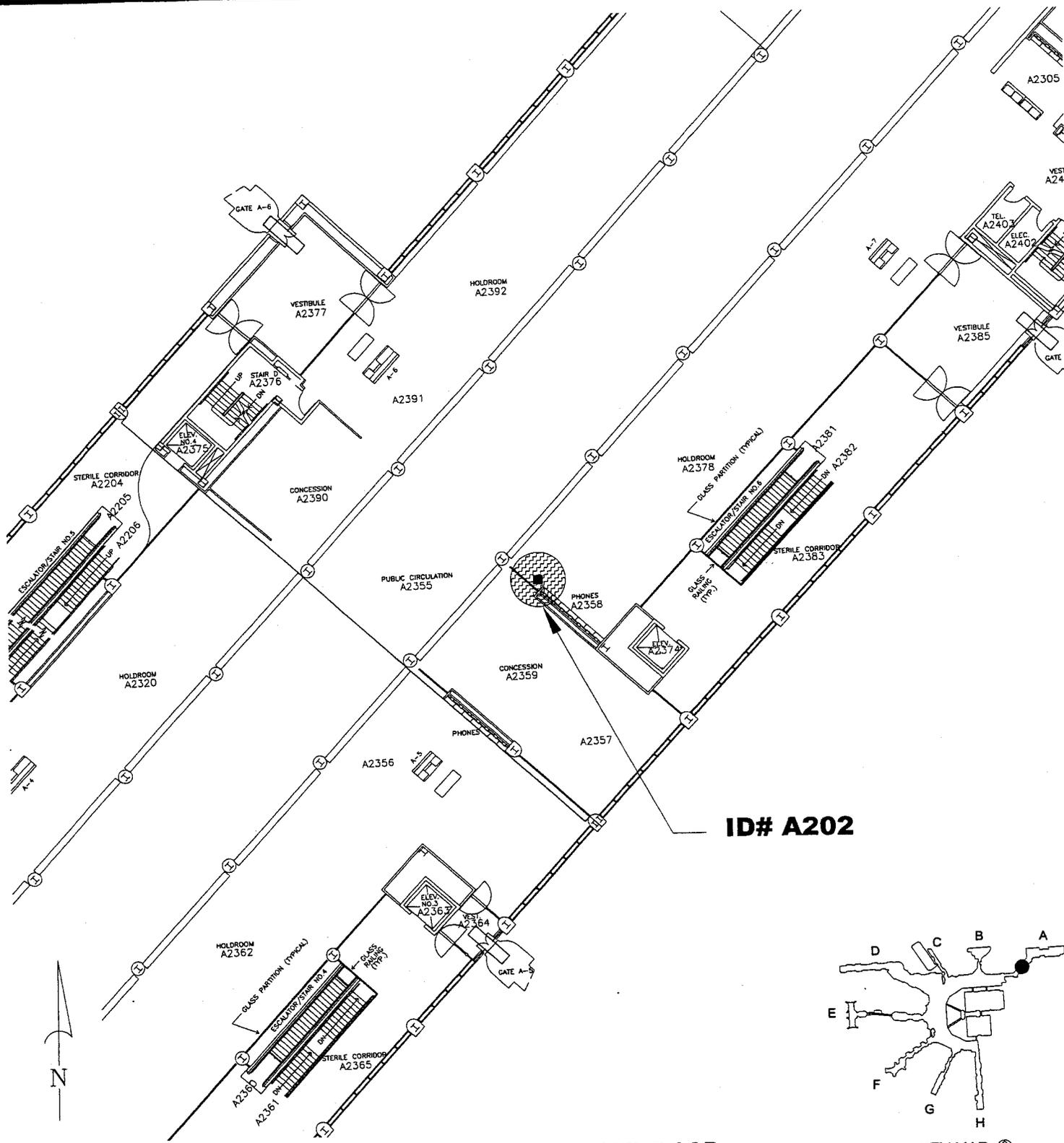


VENDING MACHINE (2' X 3') 6

144

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB



CONCOURSE 'A' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

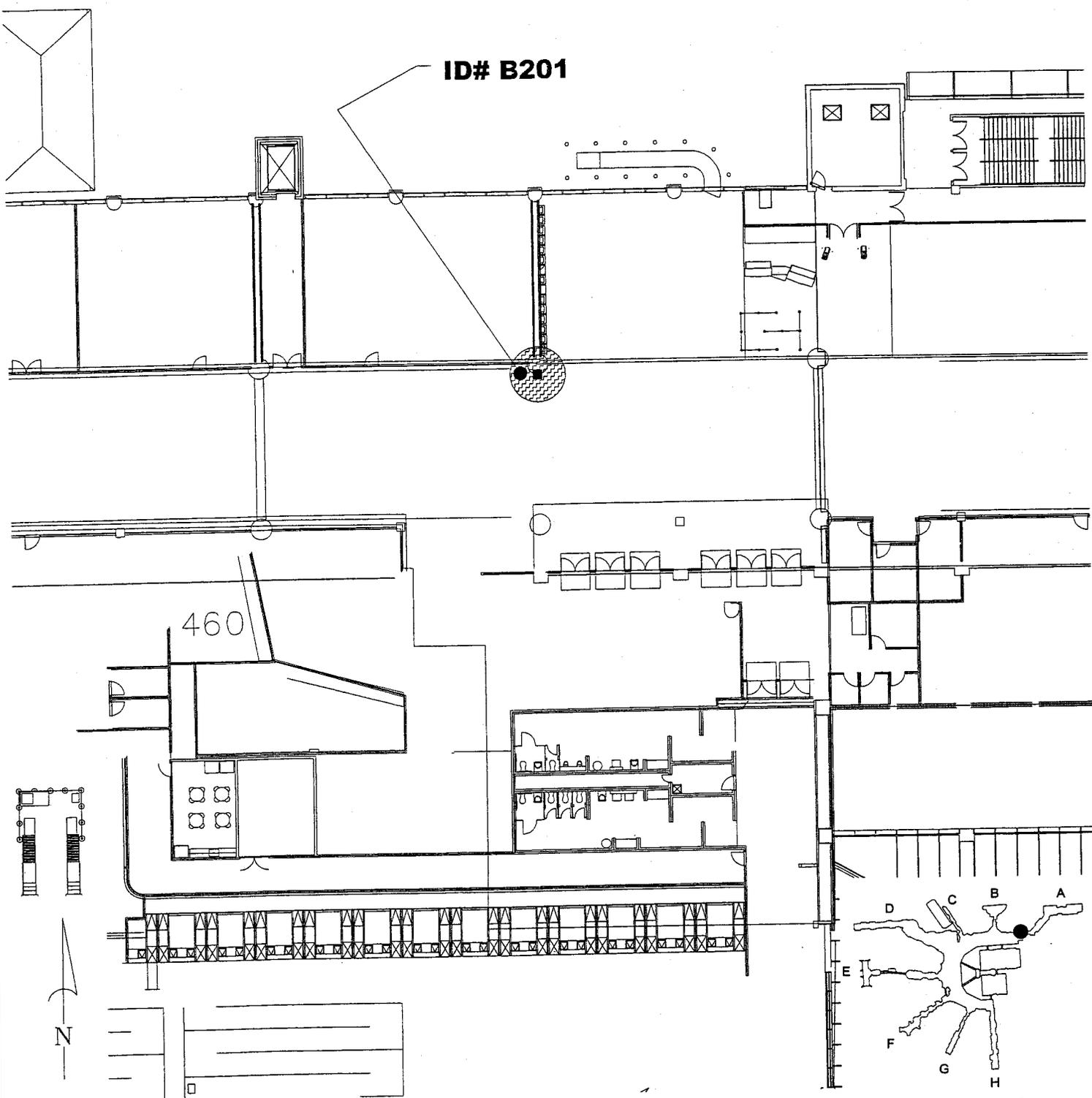
6

145

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**



ZONE 'B' - SECOND FLOOR

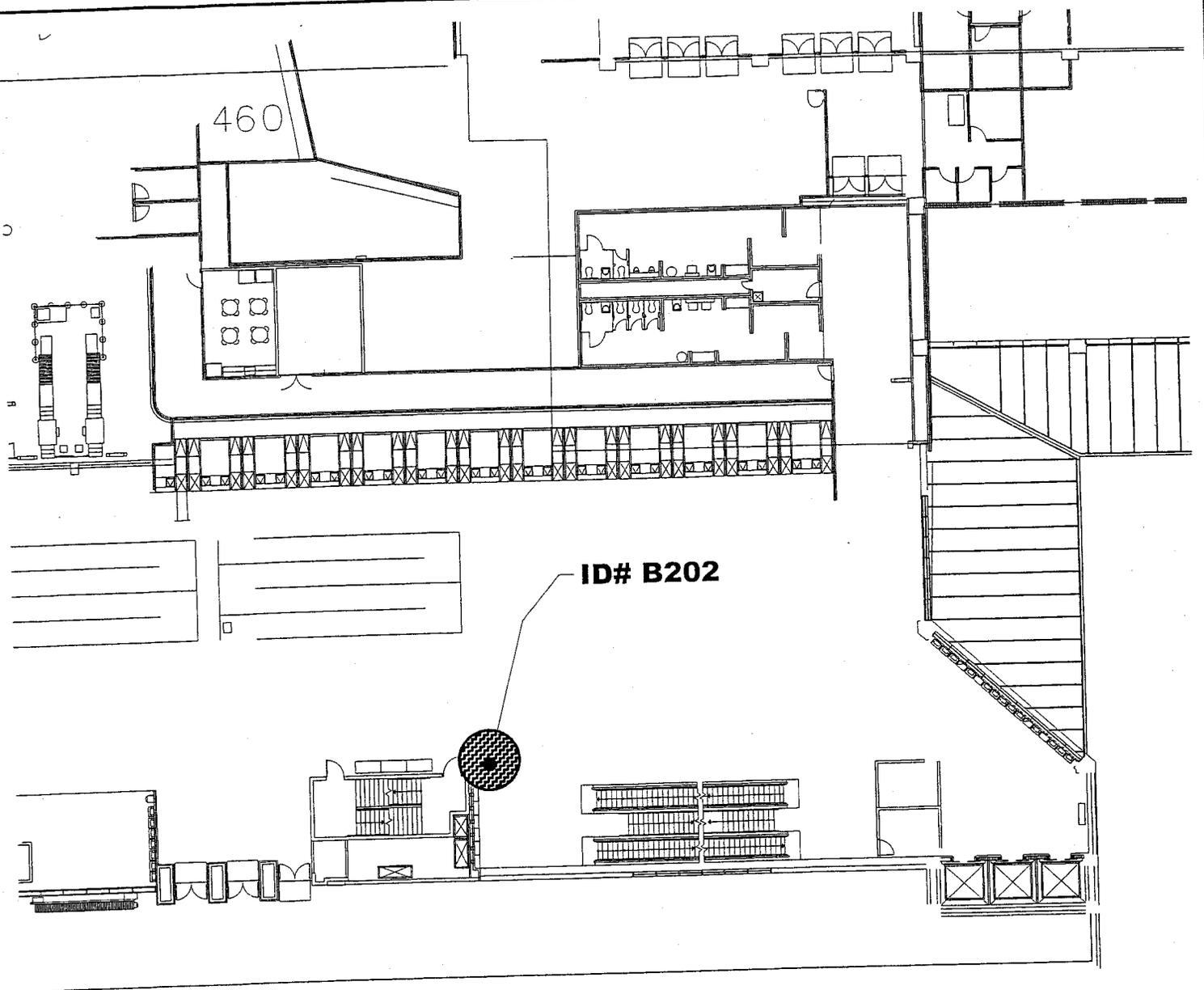
KEY MAP

<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
⊗	VENDING MACHINE (2' X 3')	6

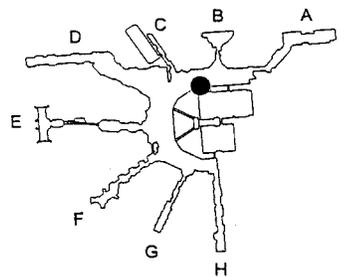
MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

146



ID# B202



KEY MAP

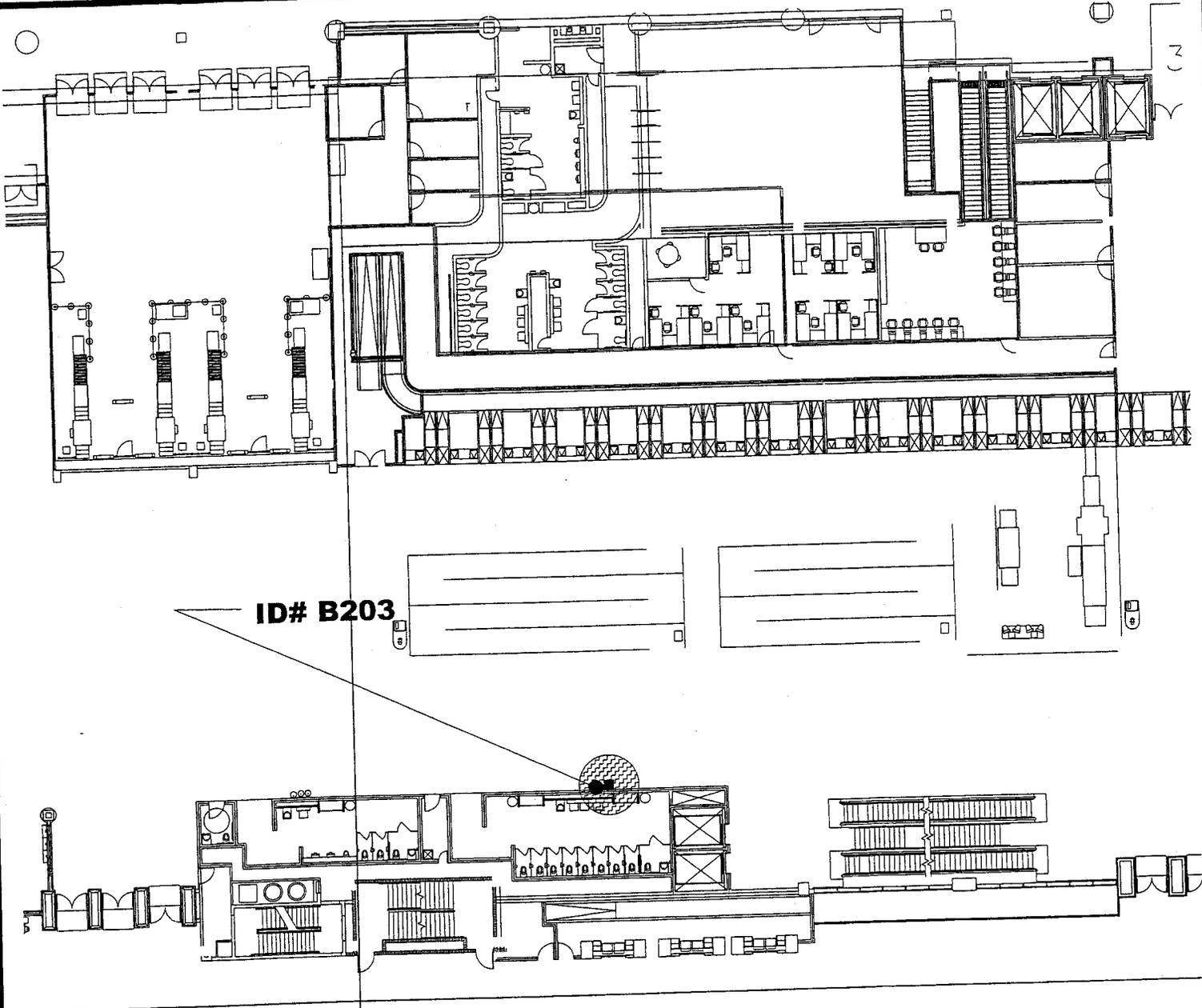
ZONE 'B' - SECOND FLOOR

<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

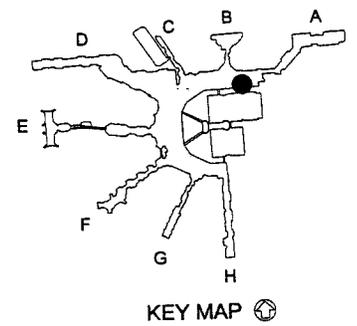
EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

147



ID# B203

ZONE 'B' - SECOND FLOOR



KEY MAP

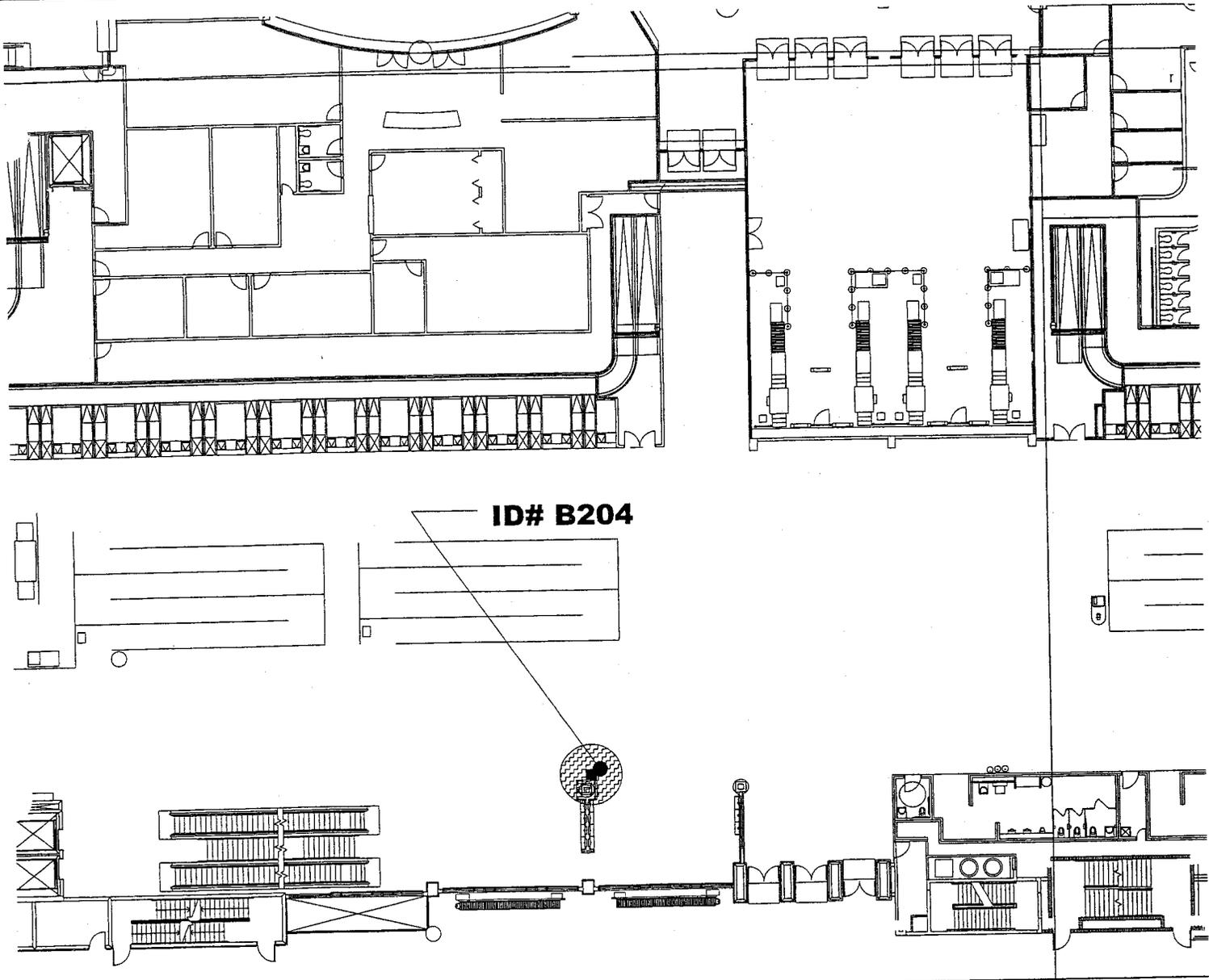
<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
	VENDING MACHINE (2' X 3')	6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

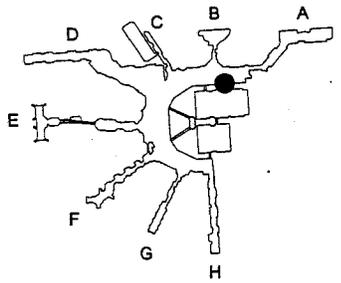
EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

178



ID# B204



ZONE 'B' - SECOND FLOOR

KEY MAP

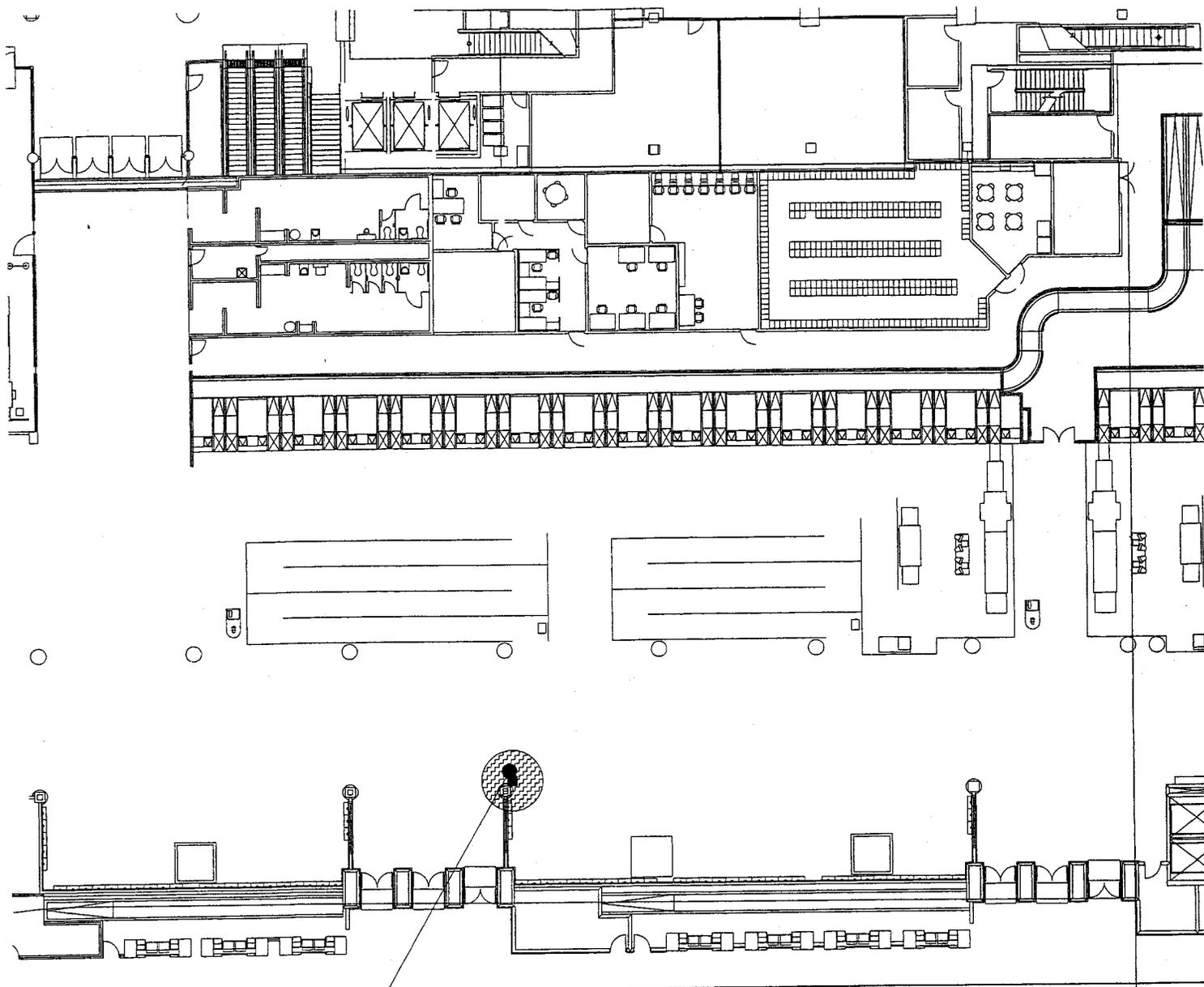
<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
	VENDING MACHINE (2' X 3')	6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

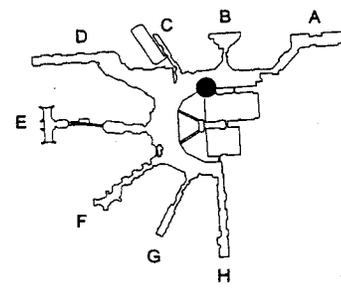
EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

149



ID# B205



ZONE 'B' - SECOND FLOOR

KEY MAP 

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

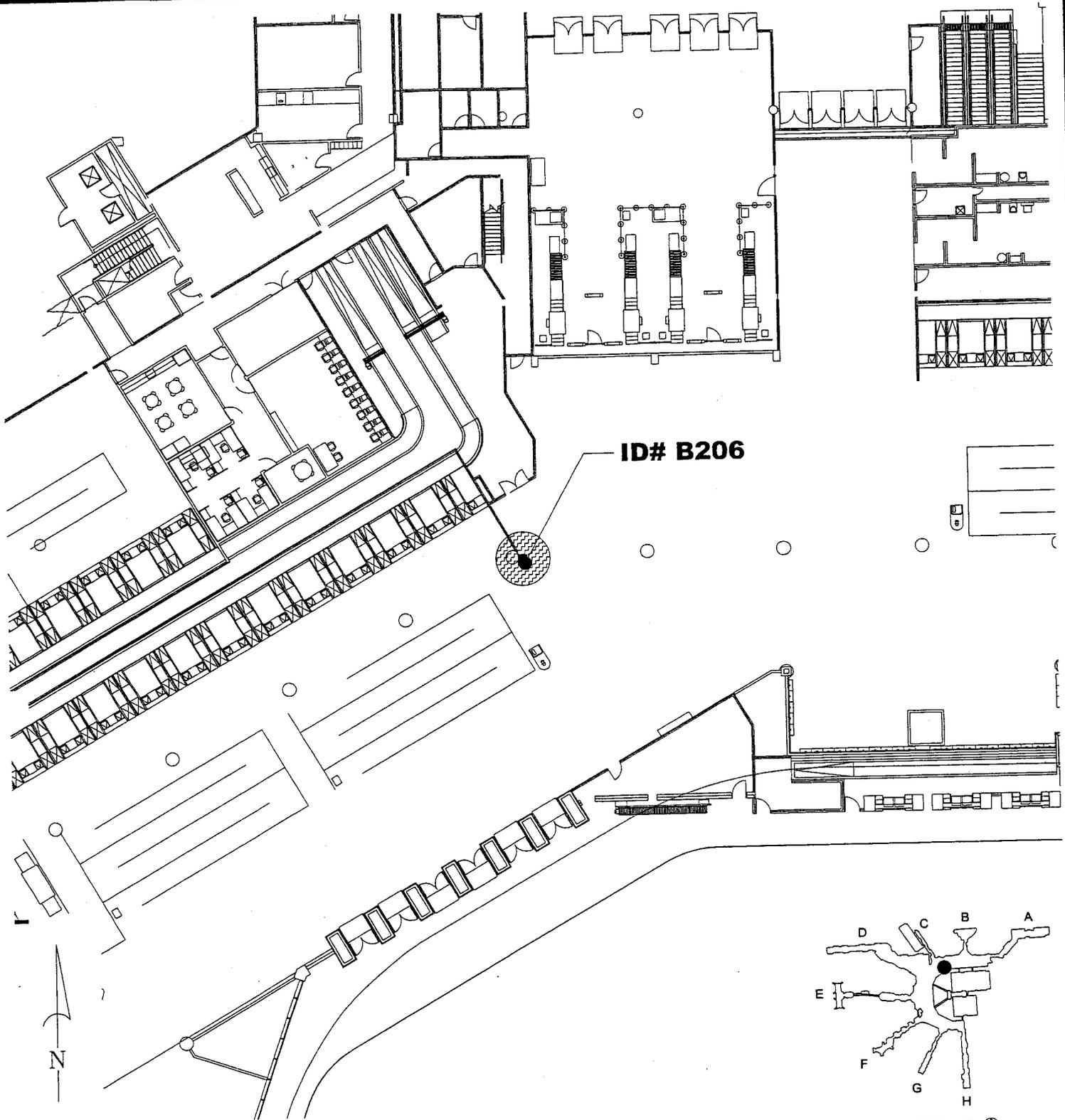
6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

150



ID# B206

ZONE 'B' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

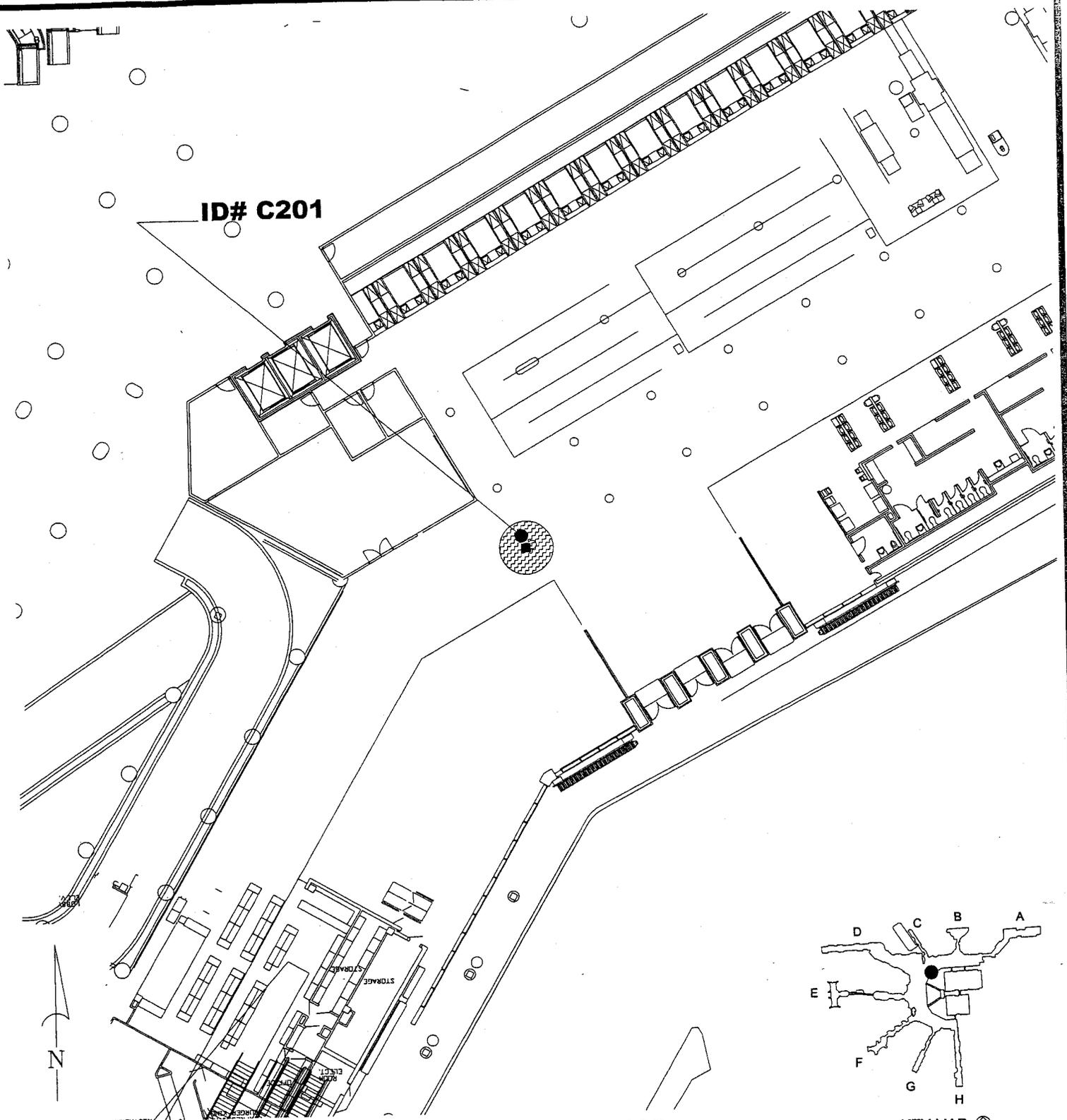
6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

151



ID# C201

ZONE 'C' - SECOND FLOOR

KEY MAP 

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

6

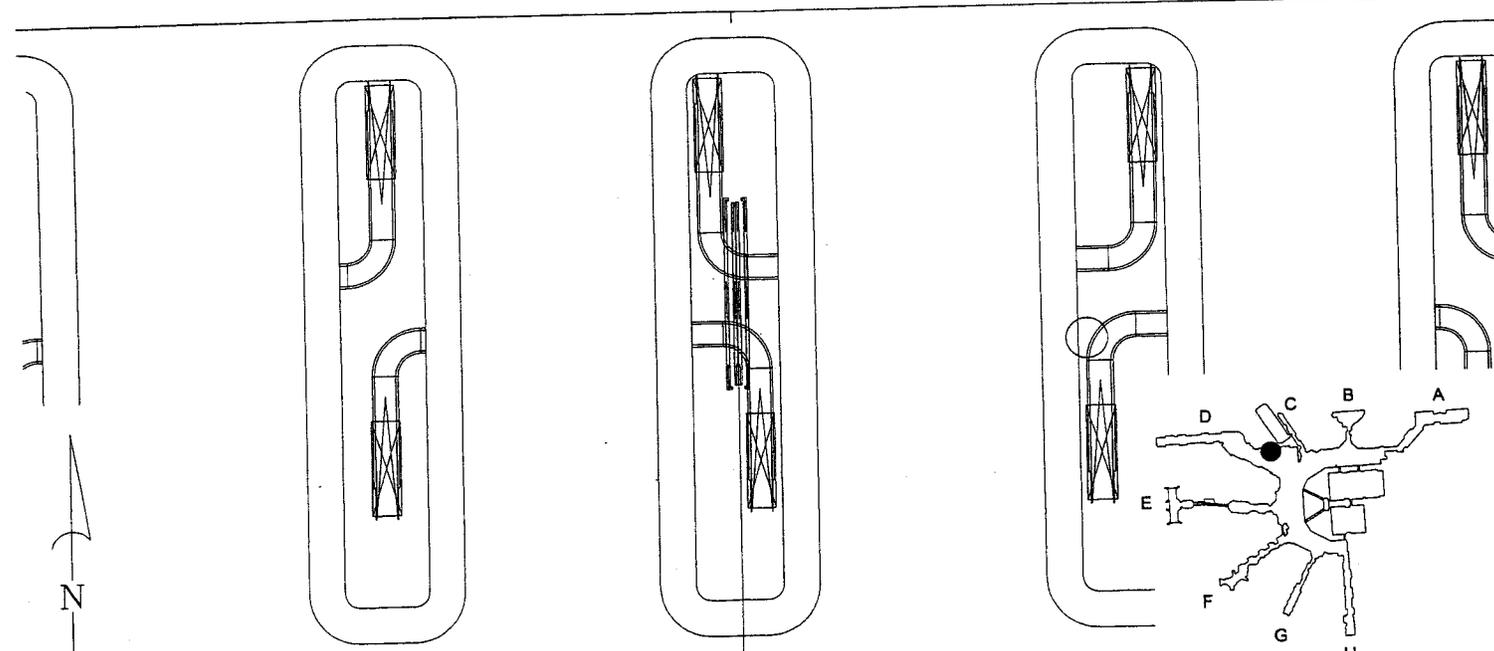
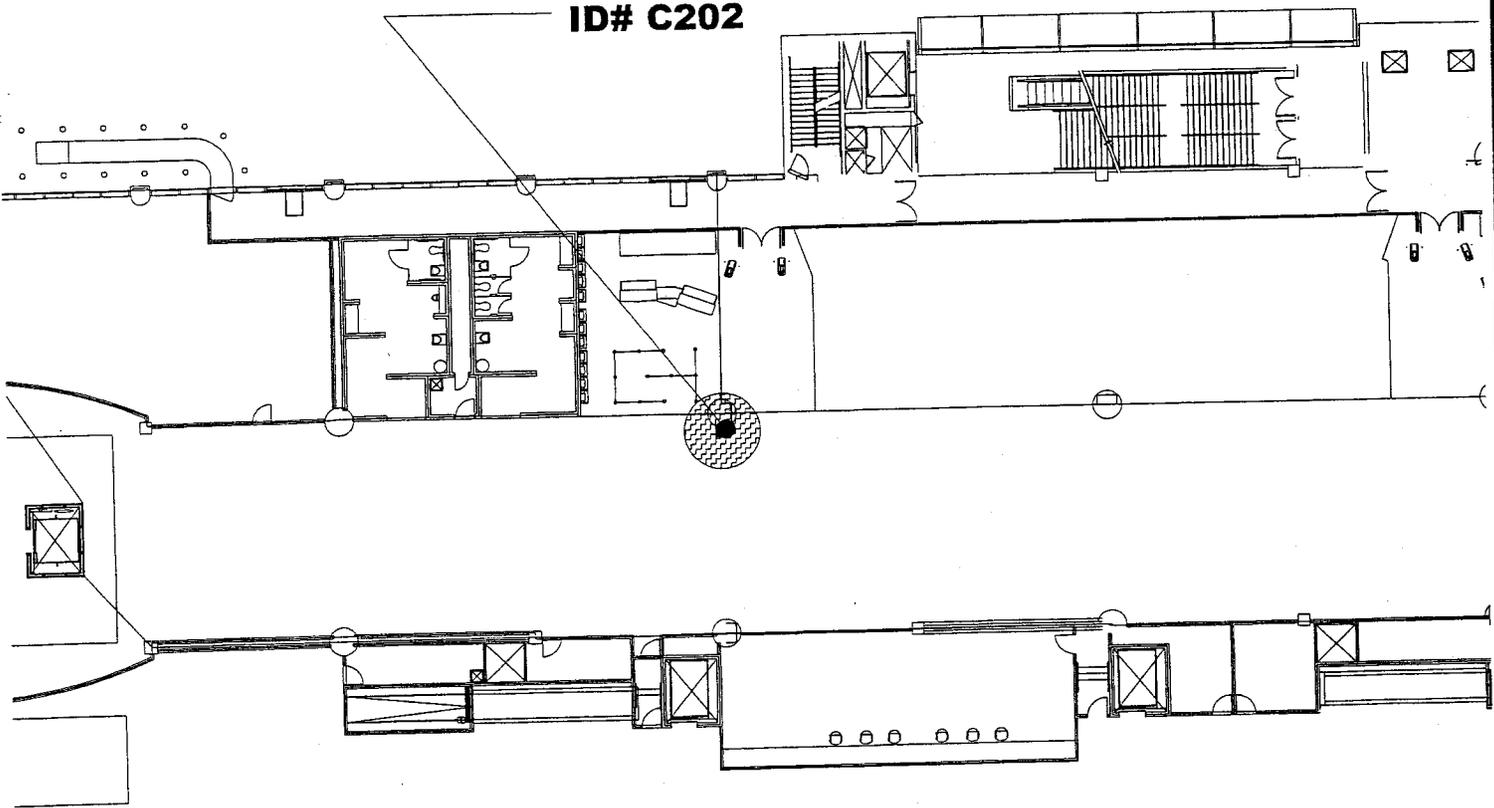
MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

152

ID# C202



ZONE 'C' - SECOND FLOOR

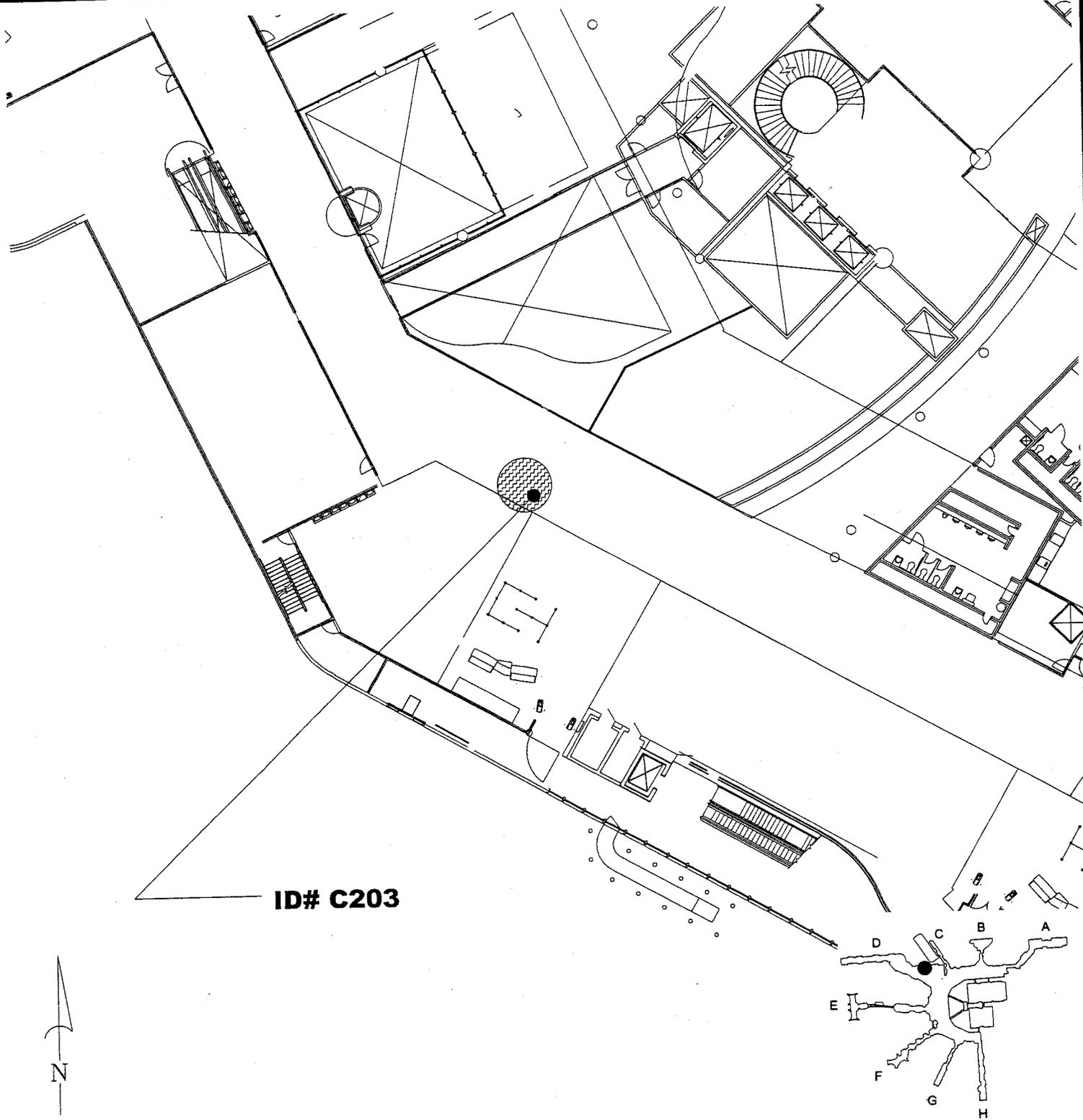
KEY MAP

CODE:	SPACE CLASS	SQ. FT.
⊕	VENDING MACHINE (2' X 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

153



ID# C203



ZONE 'C' - SECOND FLOOR

KEY MAP

<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
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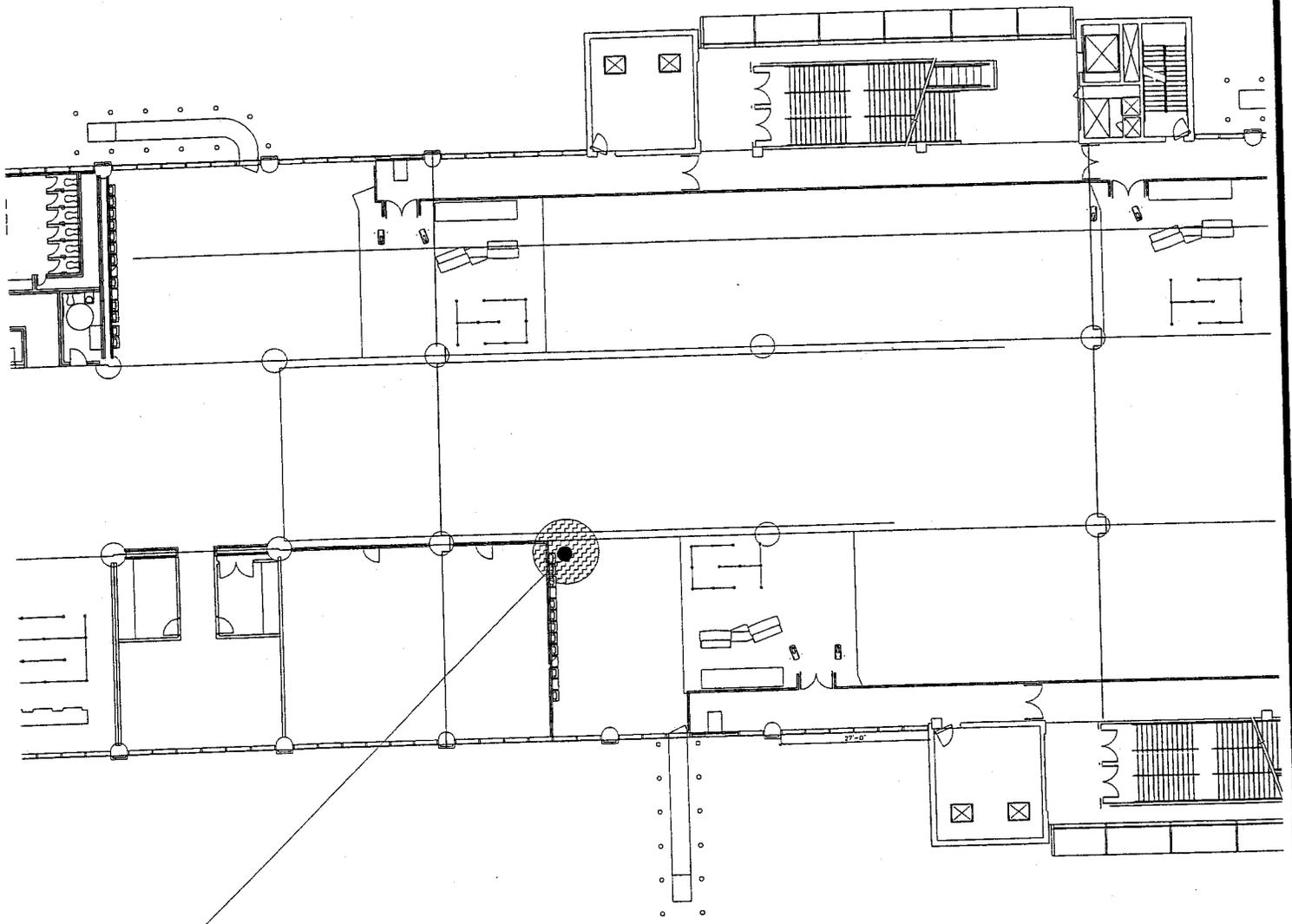
VENDING MACHINE (2' X 3')	6
---------------------------	---

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

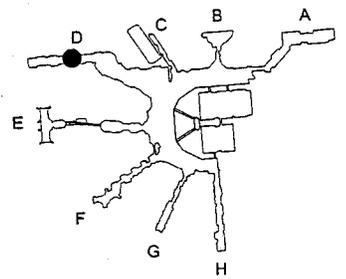
EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

154



ID# D201



KEY MAP

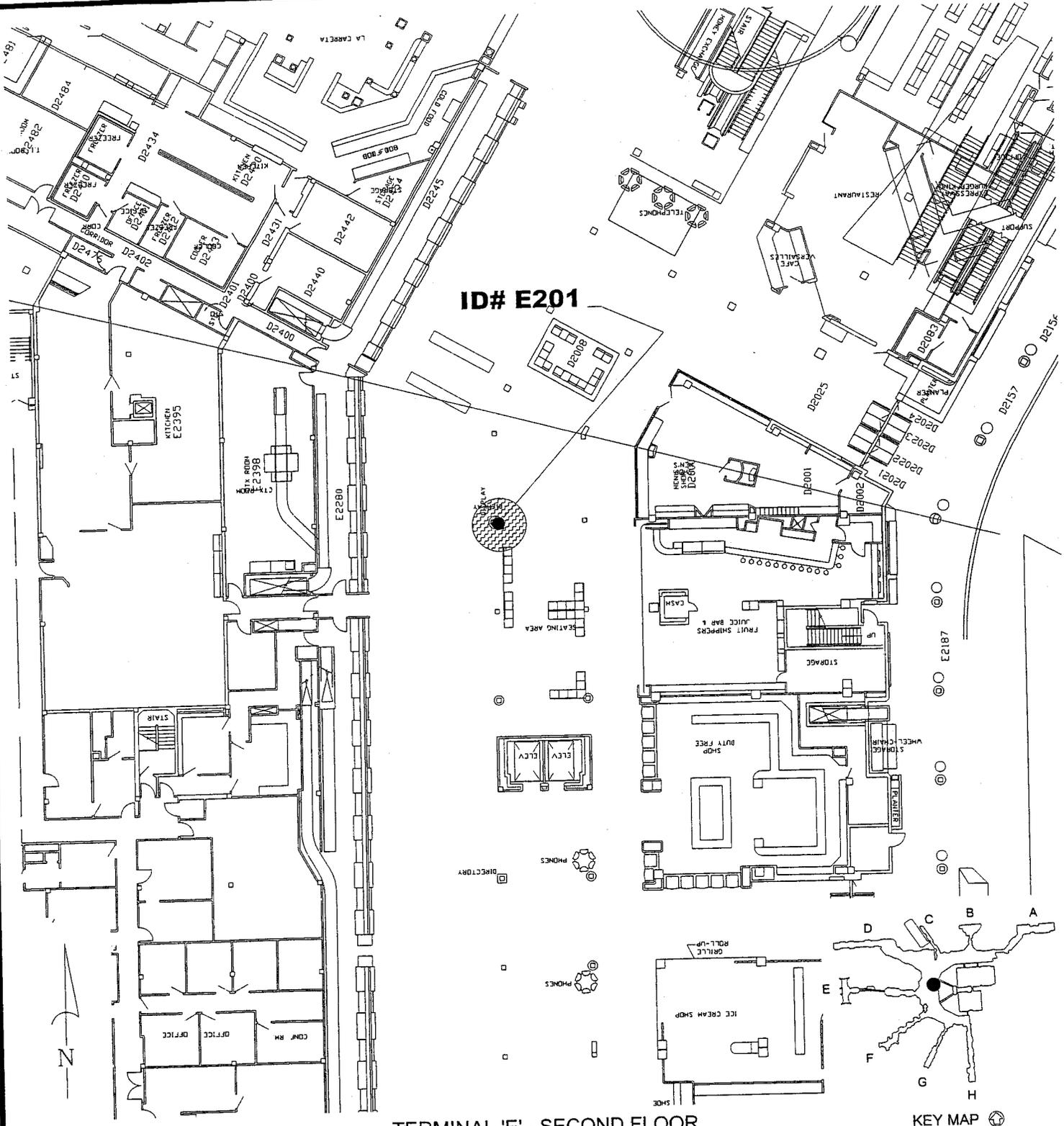
ZONE 'D' - SECOND FLOOR

CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
 PRE-PAID PHONE CARDS
 VENDING MACHINE ITB

155



CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

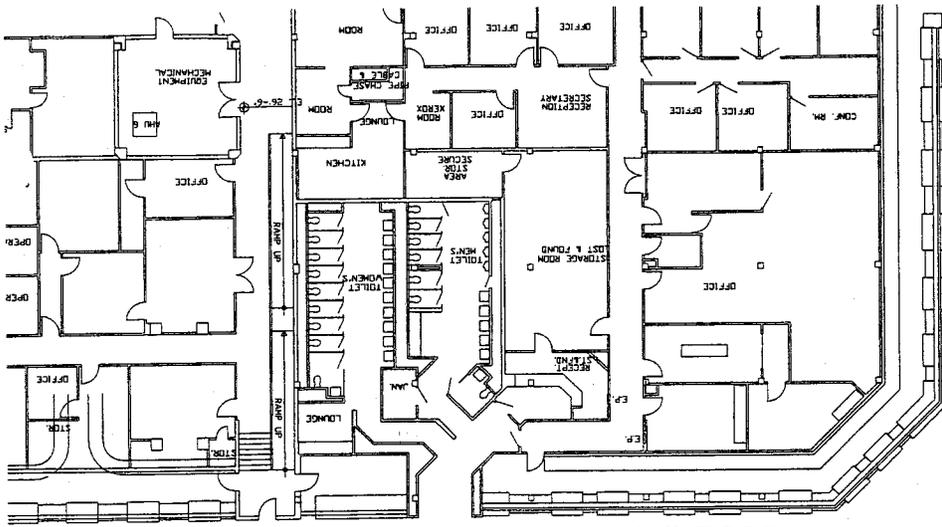
**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

156

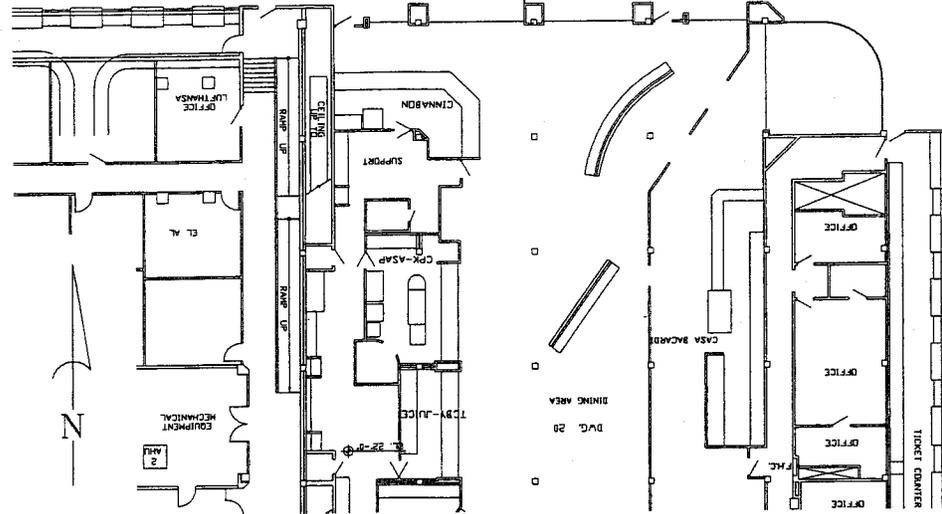
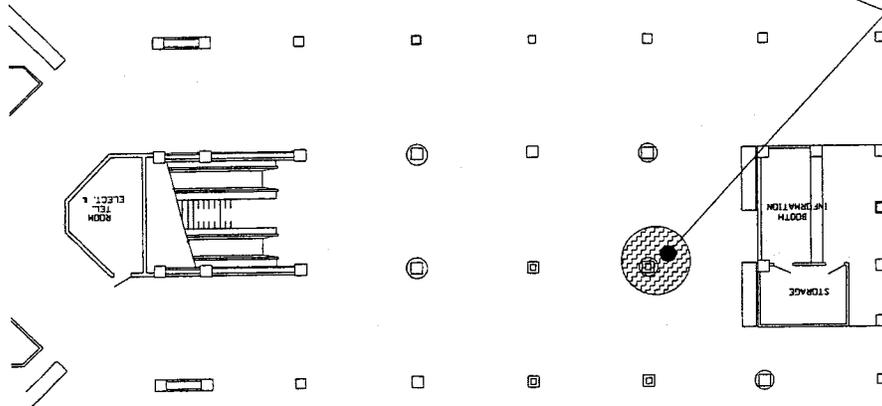
SCALE: 1/32" = 1'-0"

EFS #: FVSP-E1

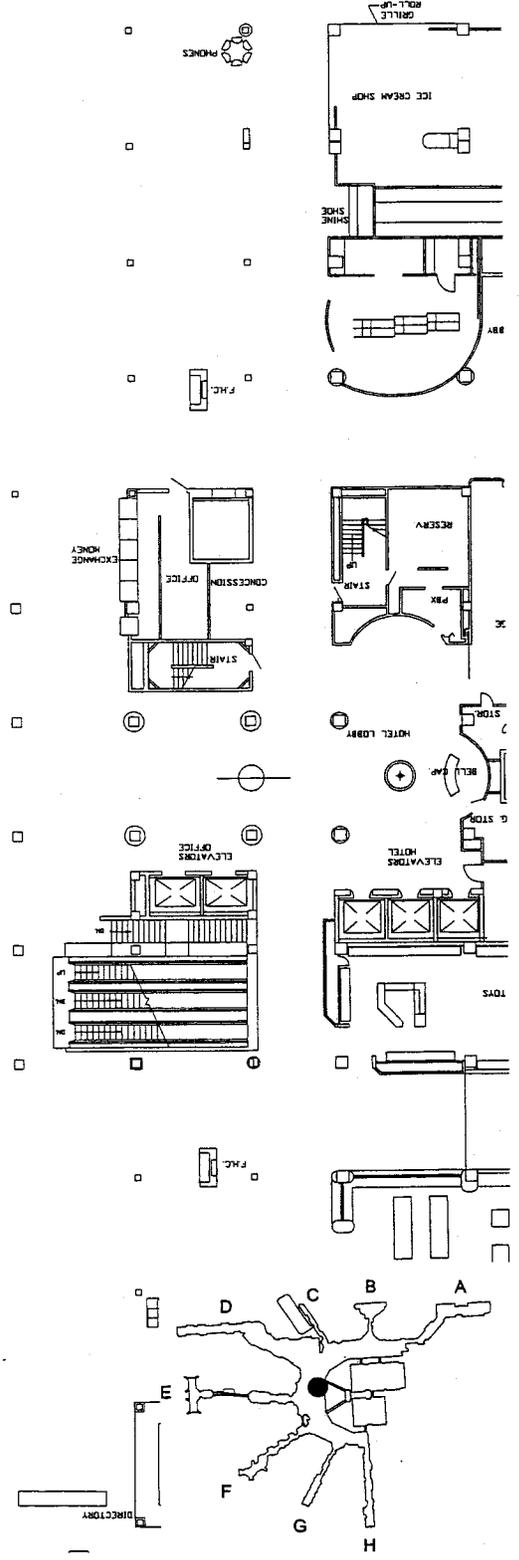
DATE: 2-09-05



ID# E202



TERMINAL 'E' - SECOND FLOOR



KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

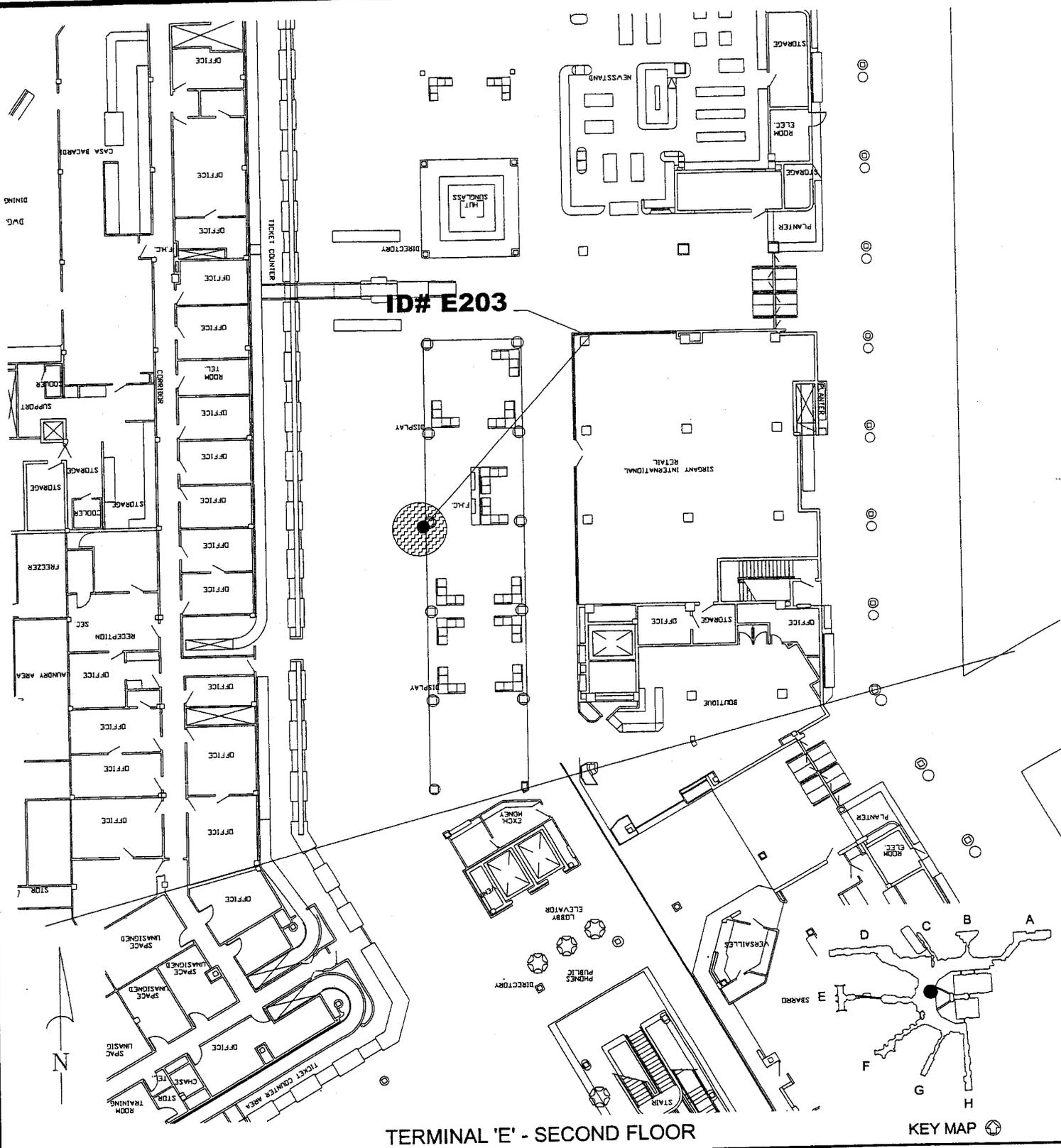
6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

157



TERMINAL 'E' - SECOND FLOOR

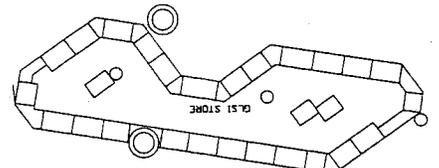
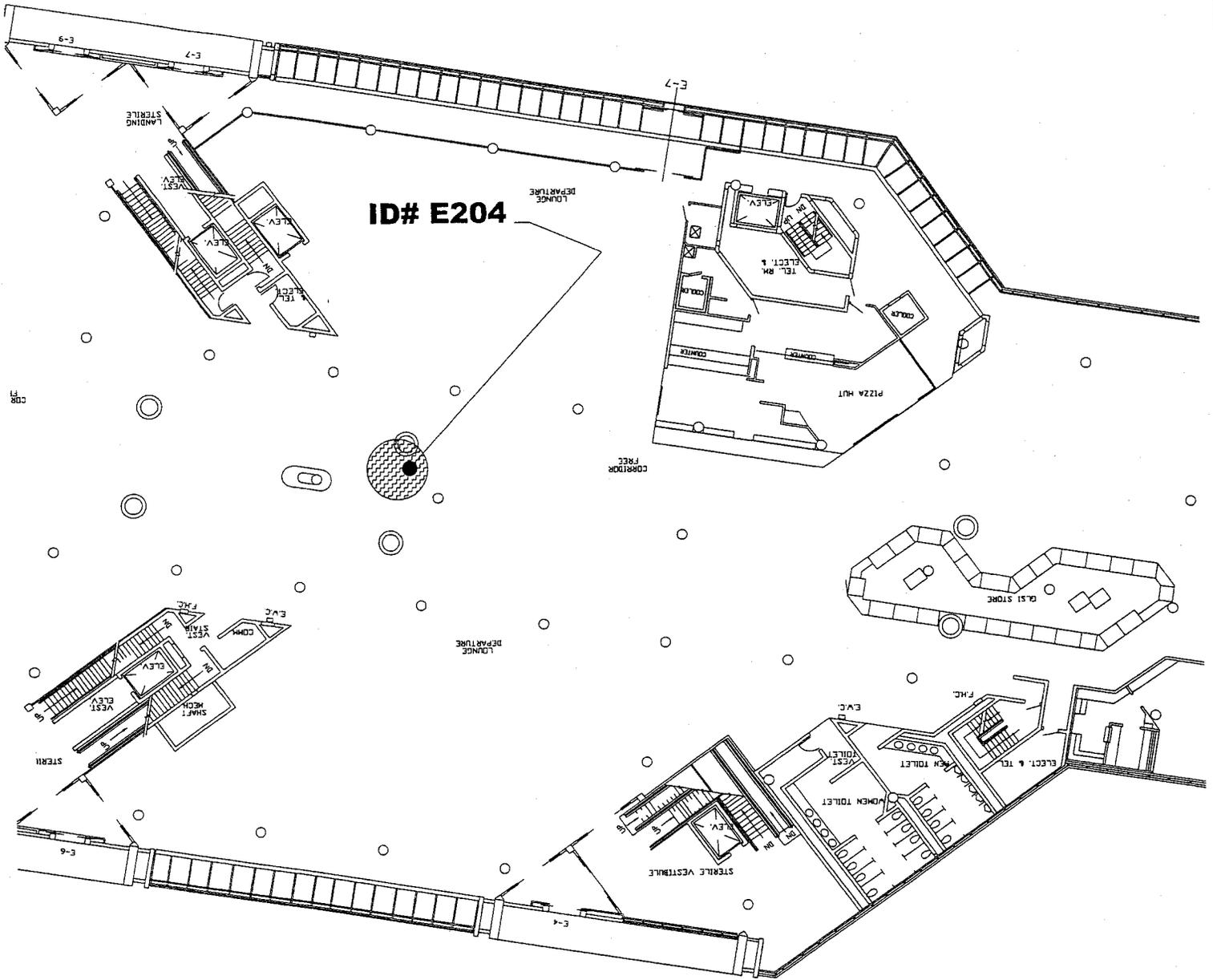
KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAYED PHONE CARDS
VENDING MACHINE ITB

158



CONCOURSE 'E' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

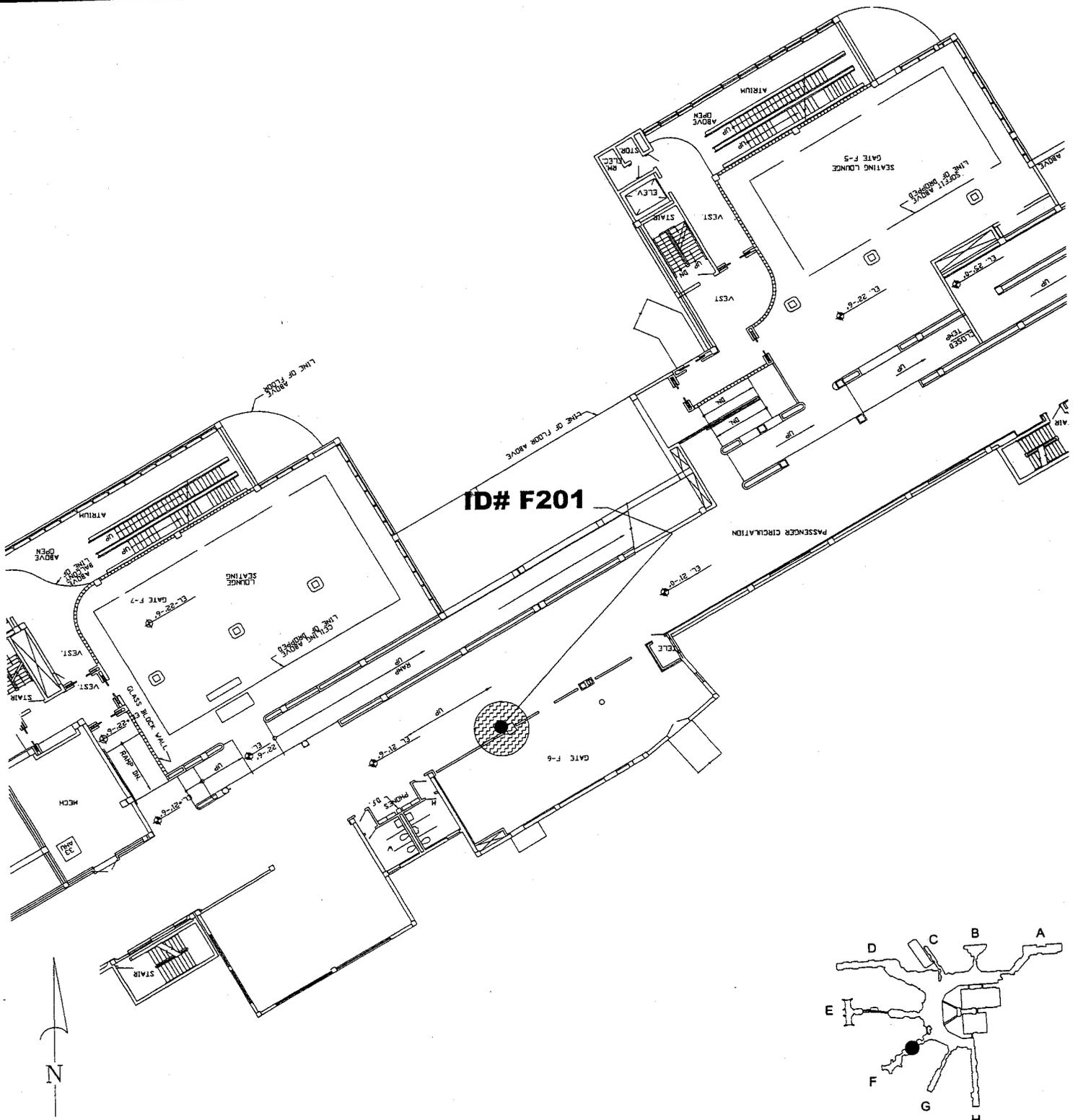
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

159



ID# F201

CONCOURSE 'F' - SECOND FLOOR

KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

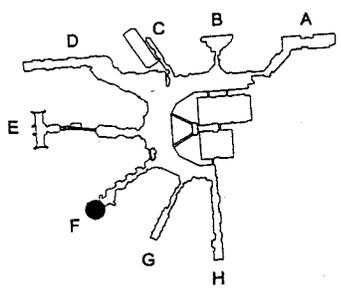
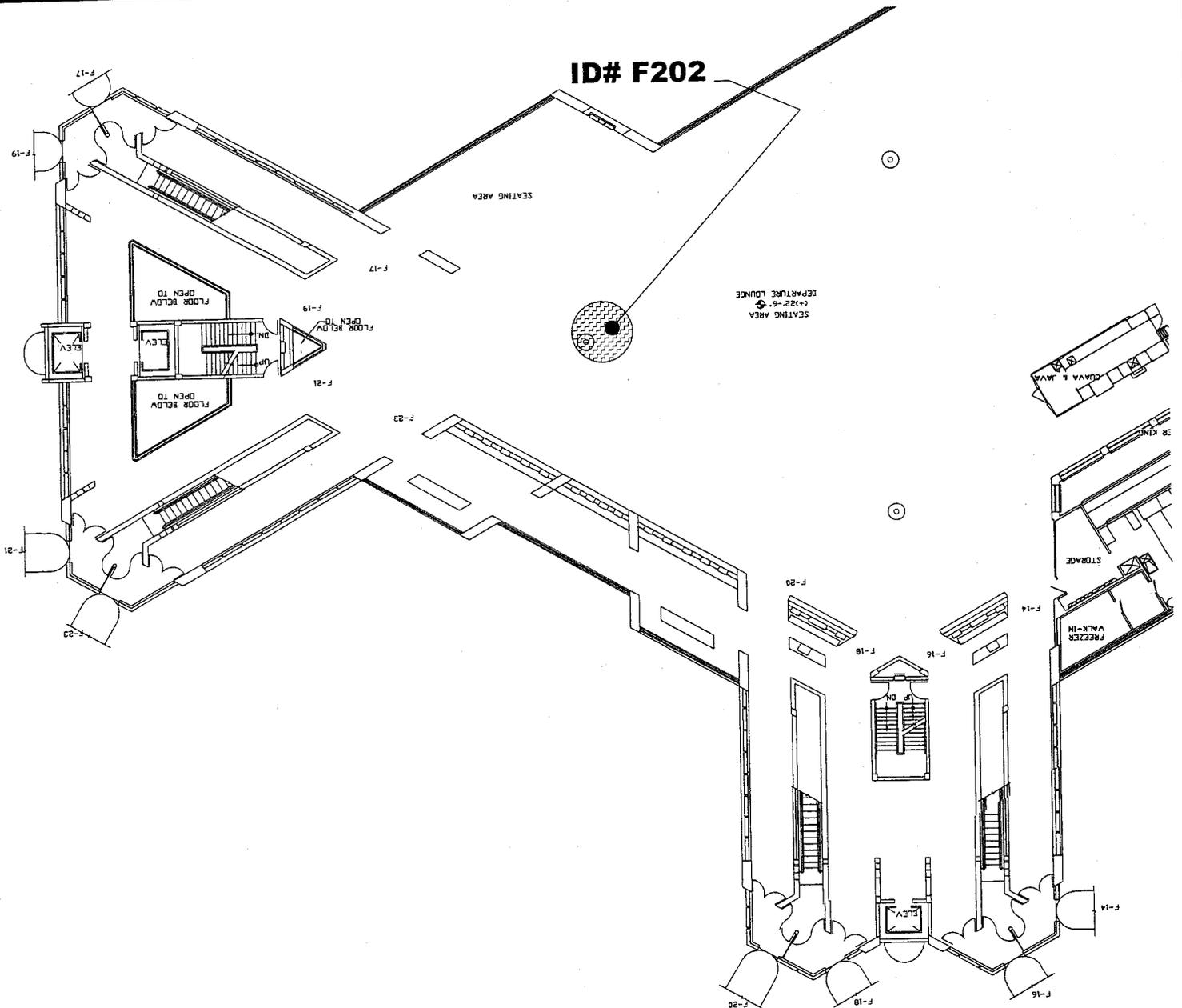
**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

165

ID# F202



CONCOURSE 'F' - SECOND FLOOR

KEY MAP

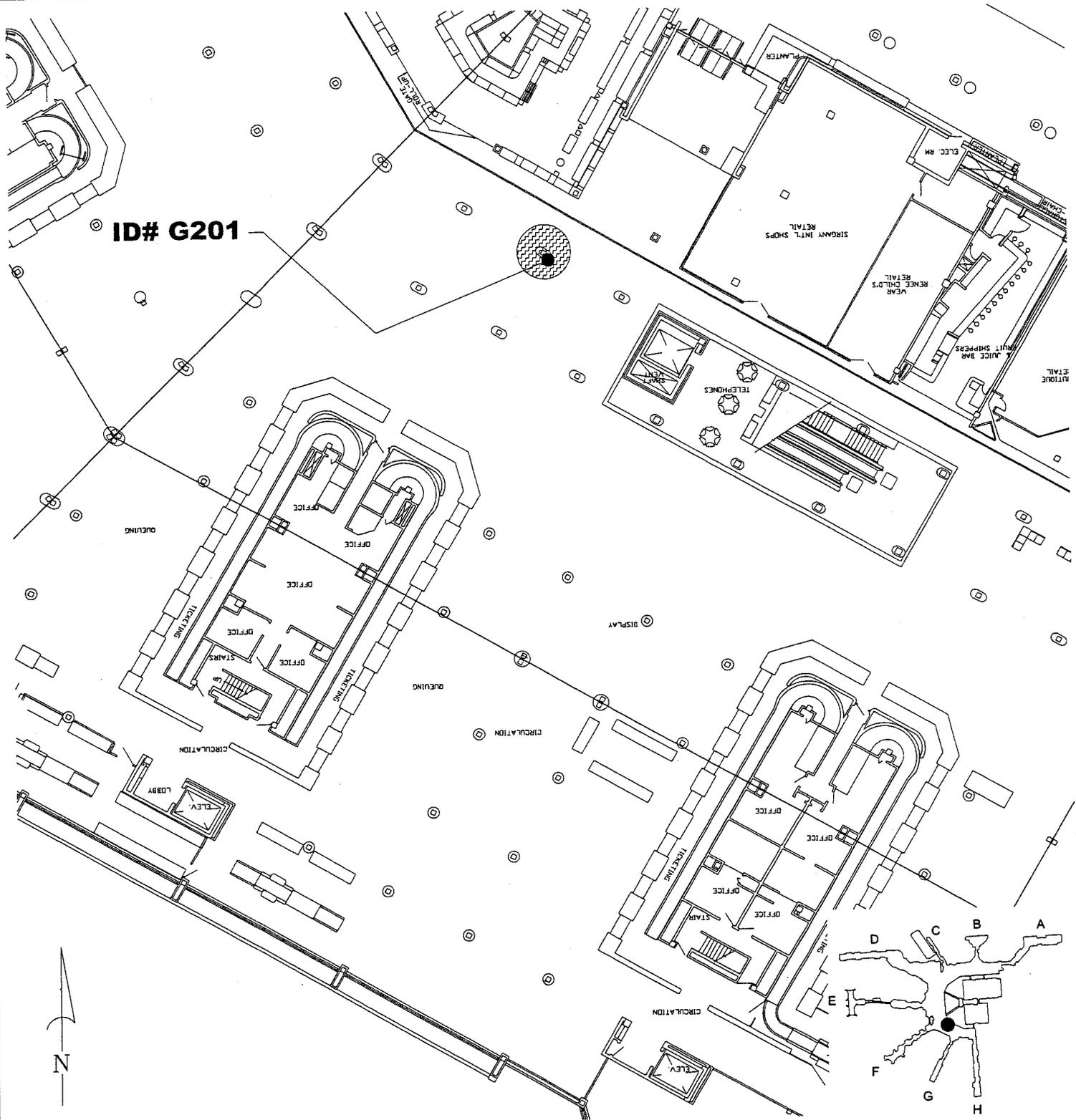
CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
 VENDING MACHINE ITB**

161



ID# G201

TERMINAL 'G' - SECOND FLOOR

KEY MAP

CODE: SPACE CLASS SQ. FT.



VENDING MACHINE (2' X 3')

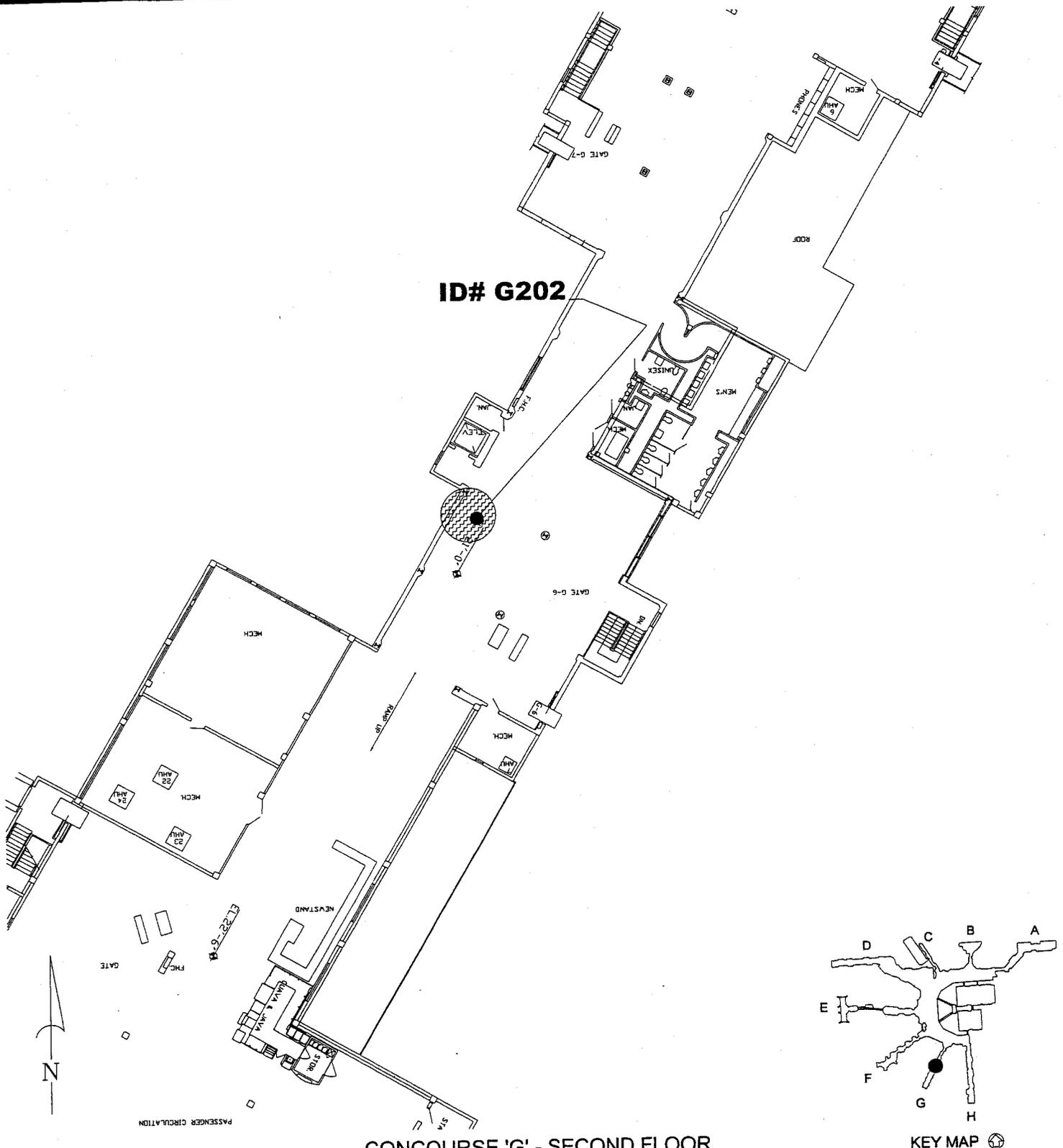
6

MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

162



ID# G202

CONCOURSE 'G' - SECOND FLOOR

KEY MAP

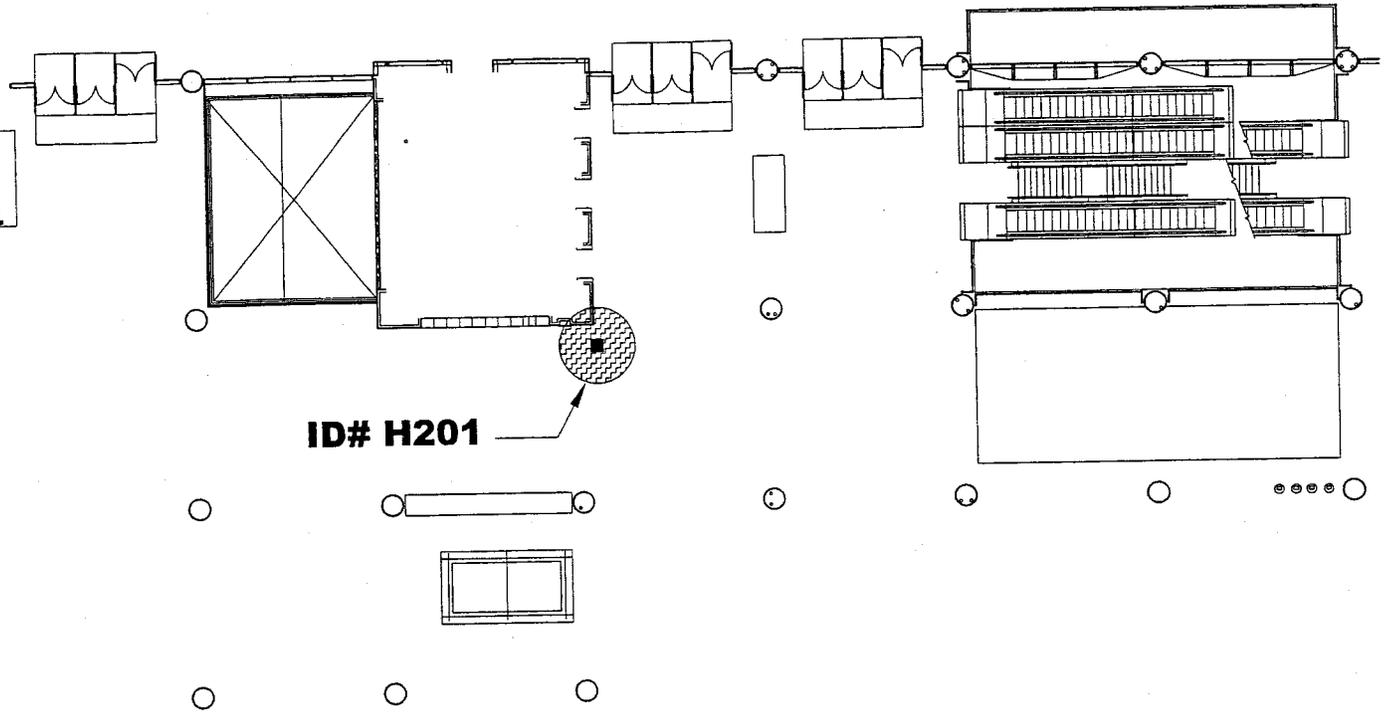
<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
	VENDING MACHINE (2' X 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

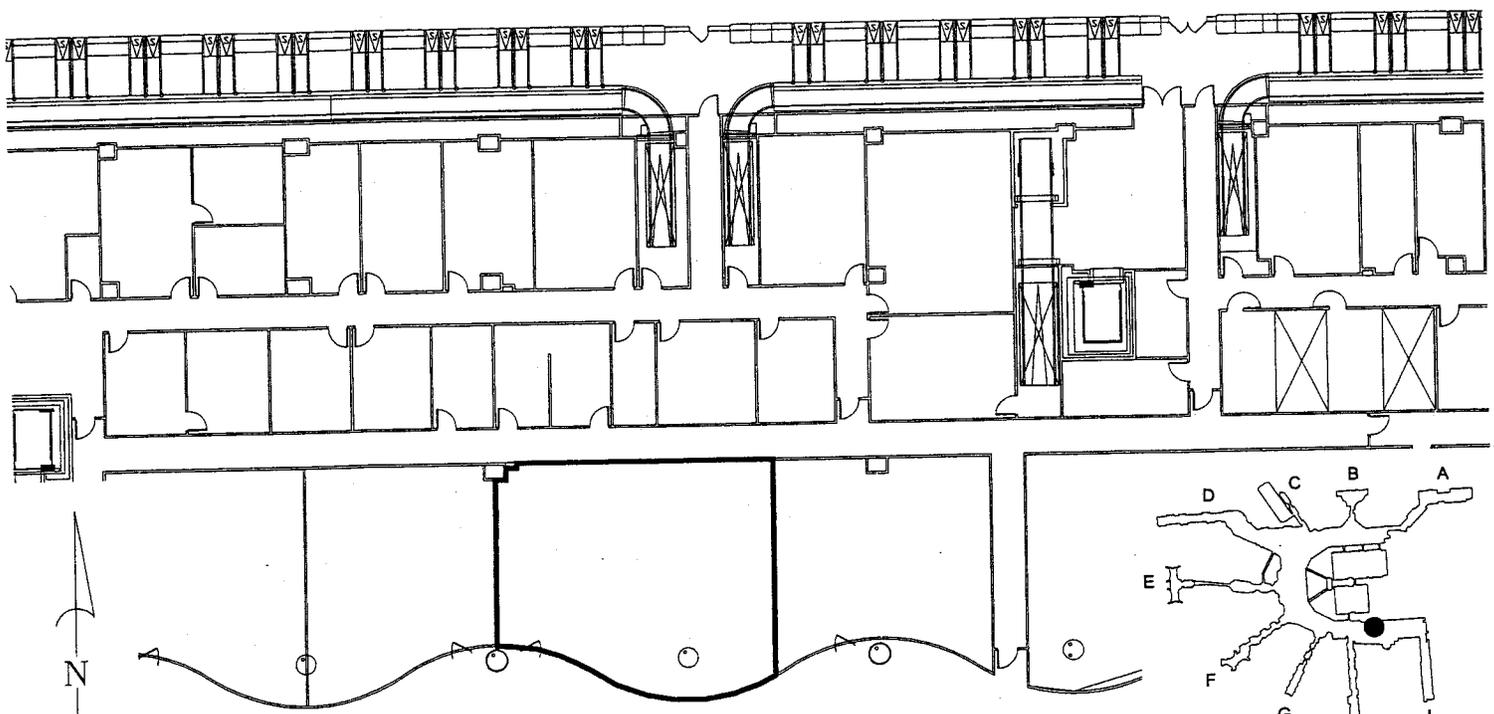
EXHIBIT A

**PRE-PAID PHONE CARDS
 VENDING MACHINE ITB**

163



ID# H201



TERMINAL 'H' - SECOND LEVEL

KEY MAP

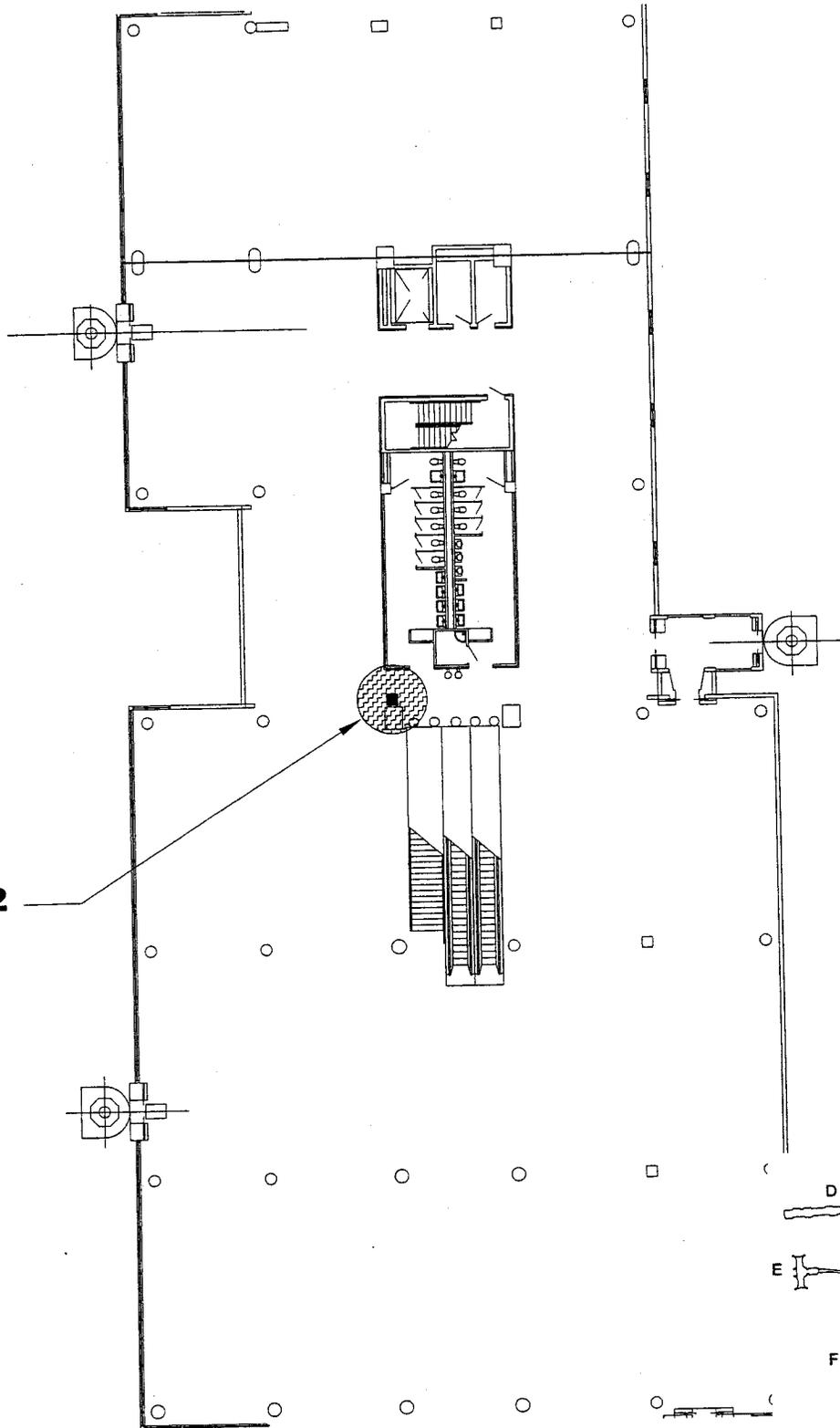
CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' x 6')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

164

ID# H202



CONCOURSE 'H' - SECOND LEVEL

KEY MAP



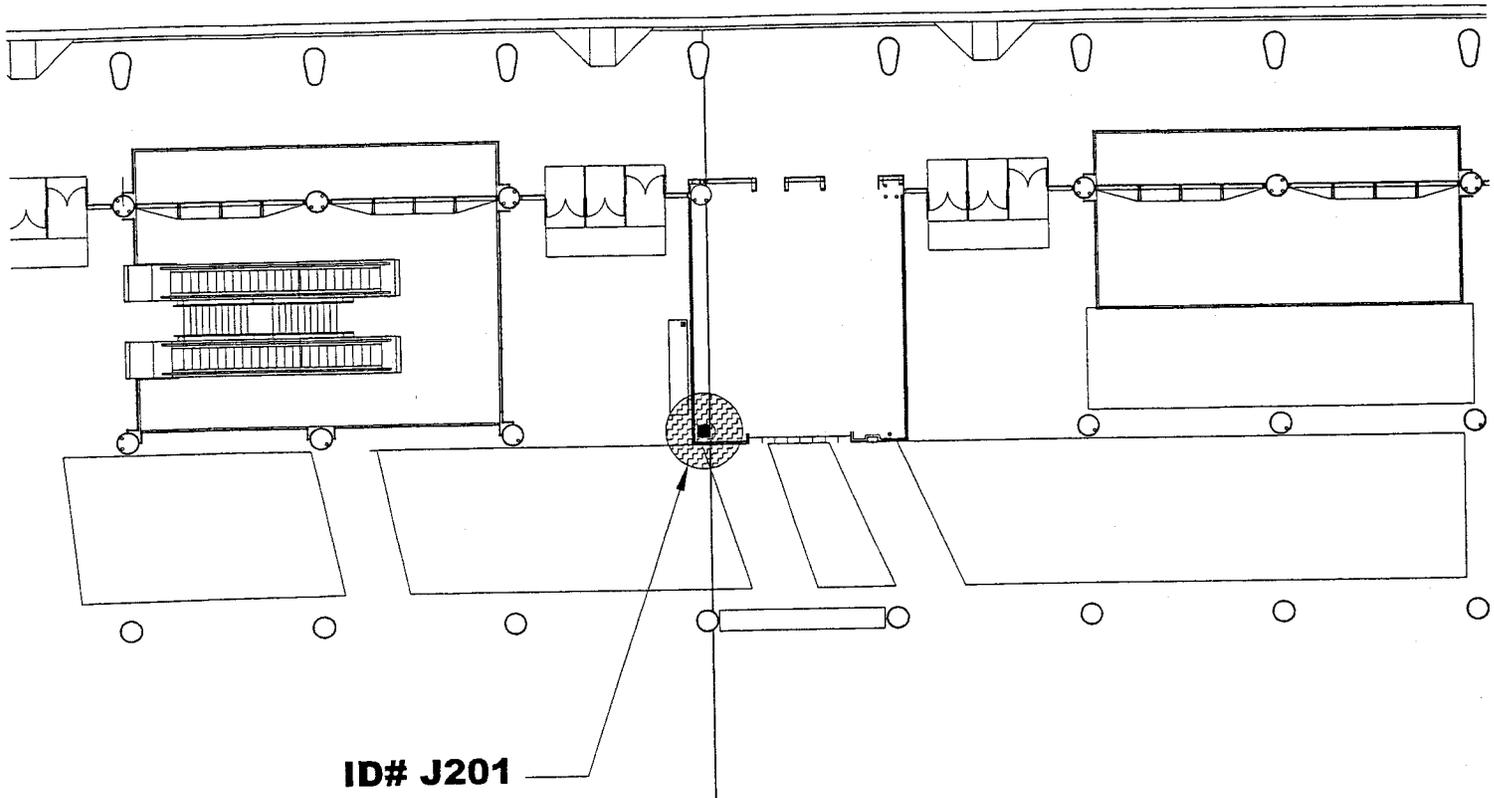
*

<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
	VENDING MACHINE (2' x 6')	6

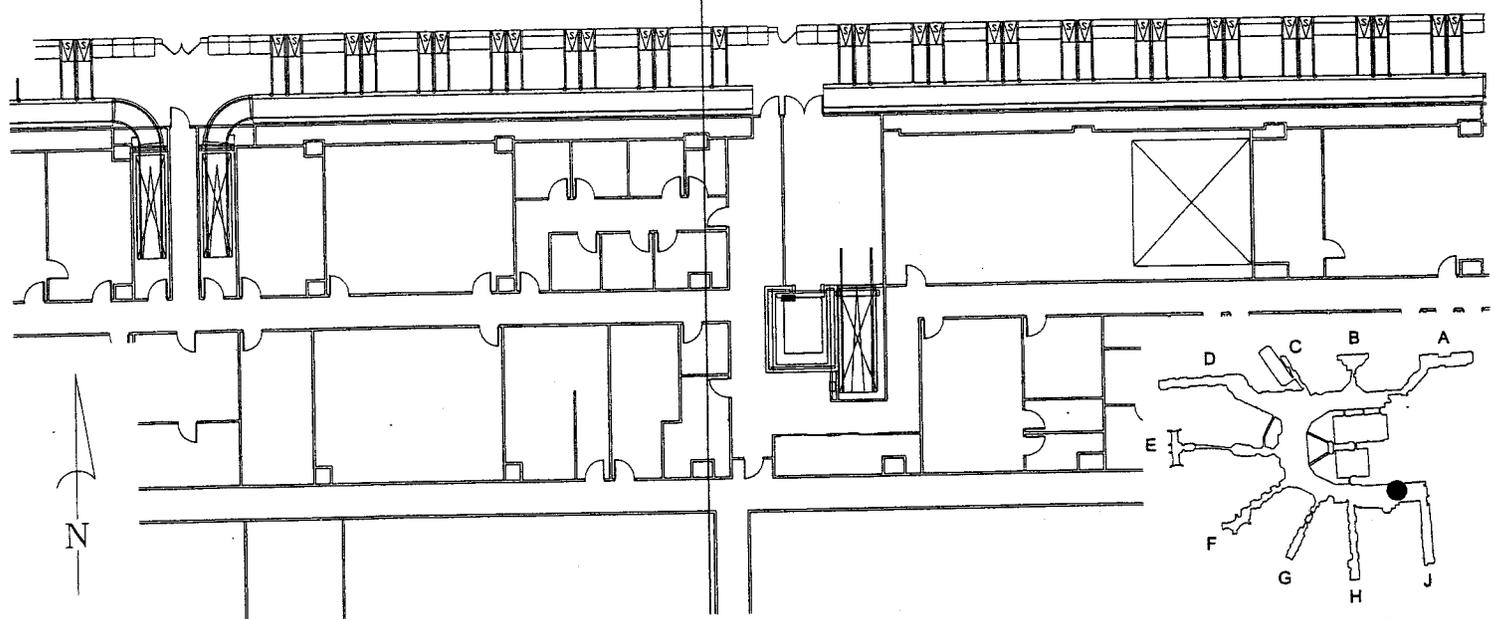
MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

165



ID# J201



TERMINAL 'J' - SECOND LEVEL

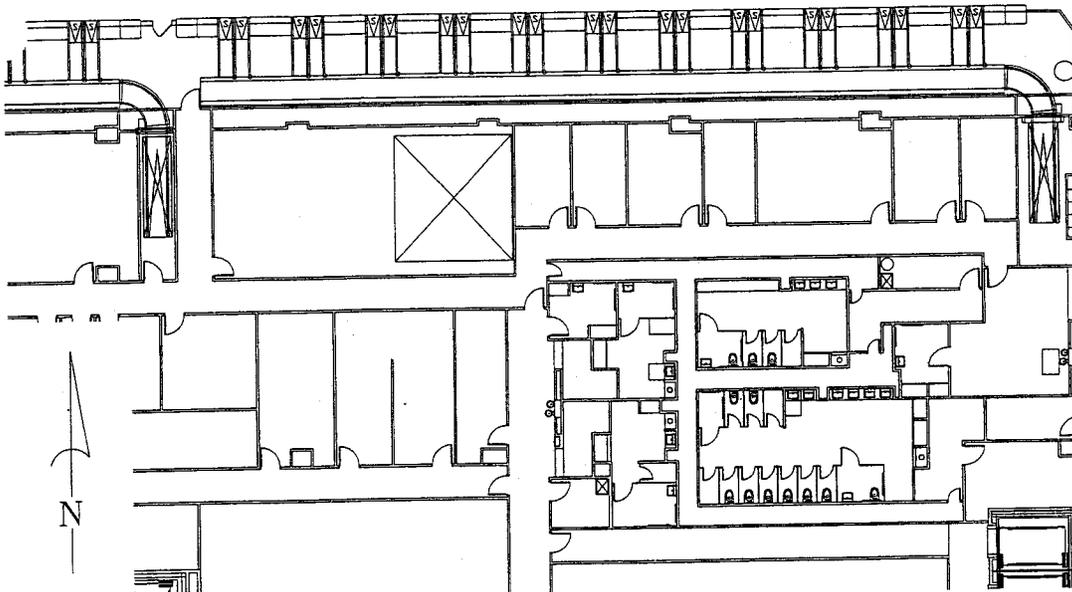
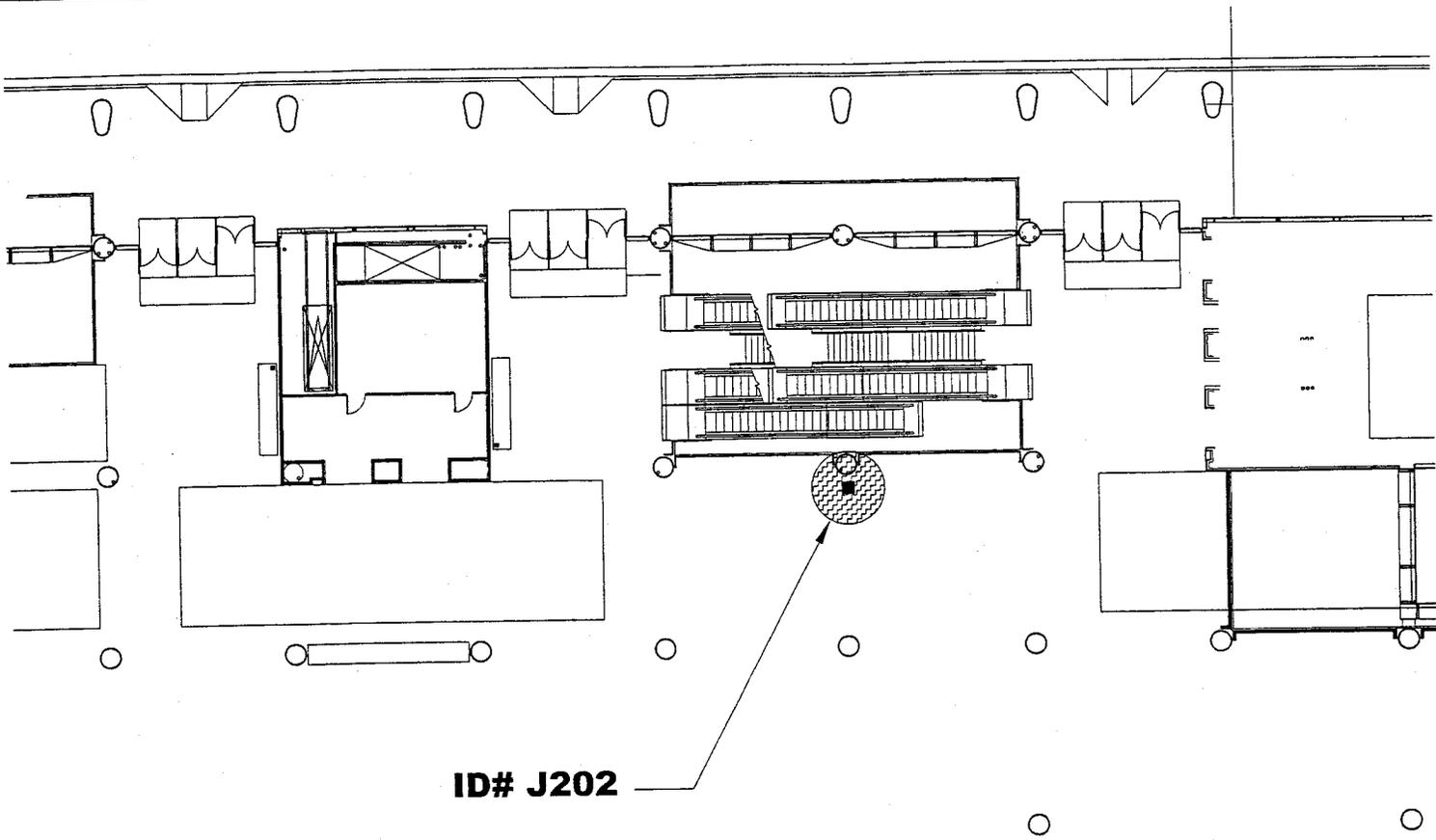
KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' x 6')	6

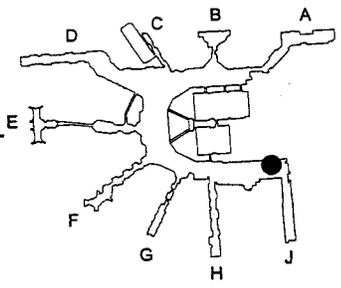
MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

166



TERMINAL 'J' - SECOND LEVEL



KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' x 6')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

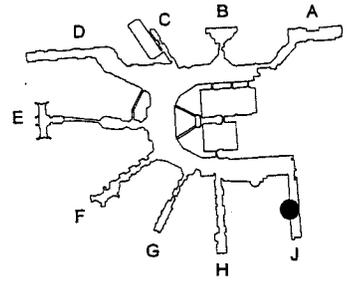
167

ID# J203



*

CONCOURSE 'J' - SECOND LEVEL



KEY MAP

CODE:

SPACE CLASS

SQ. FT.



VENDING MACHINE (2' x 6')

6

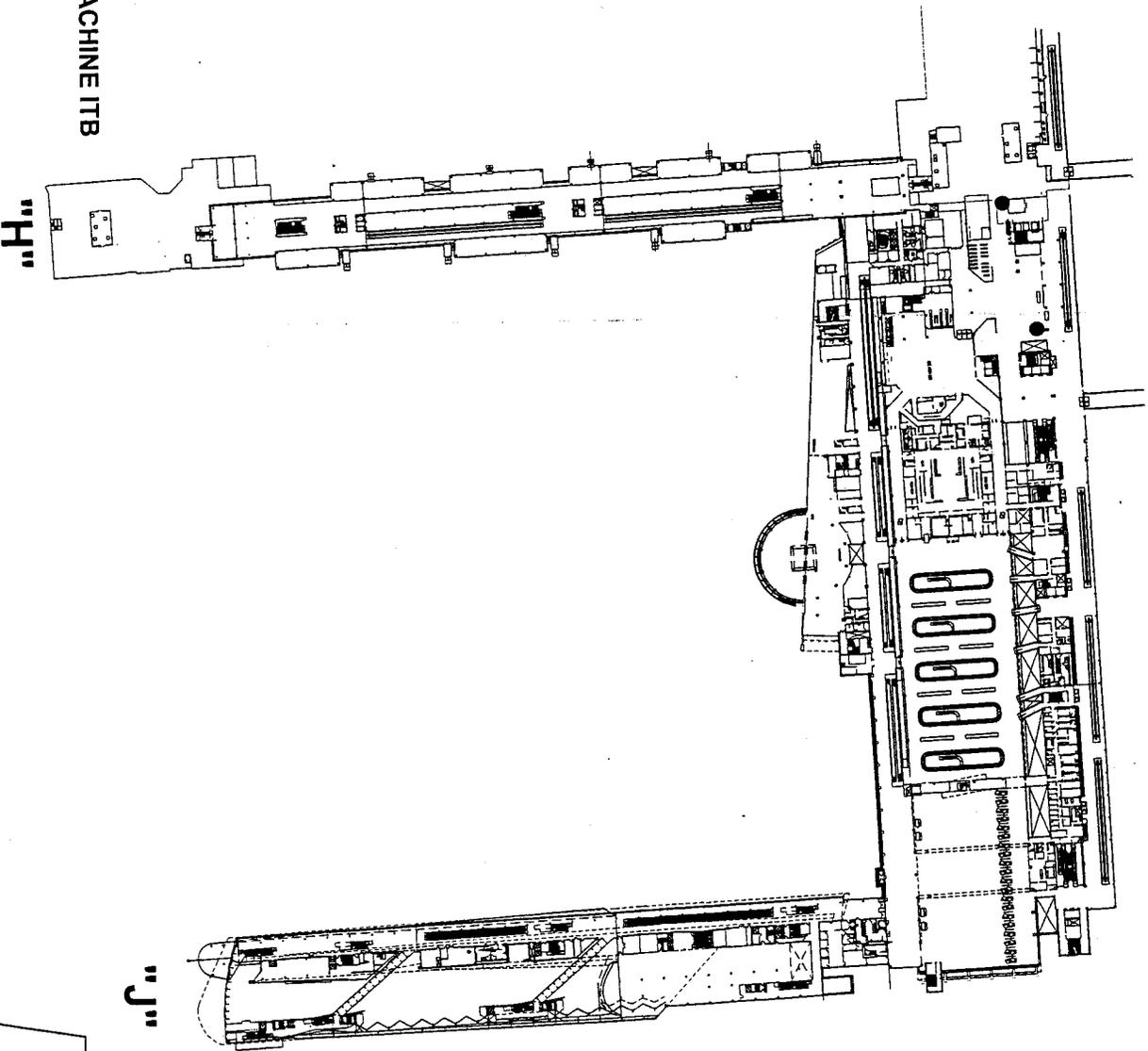
MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT

EXHIBIT A
PRE-PAID PHONE CARDS
VENDING MACHINE ITB

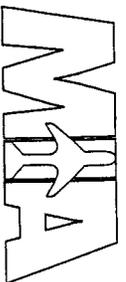
168

MIAMI INTERNATIONAL AIRPORT
SOUTH TERMINAL DEVELOPMENT
THIRD LEVEL

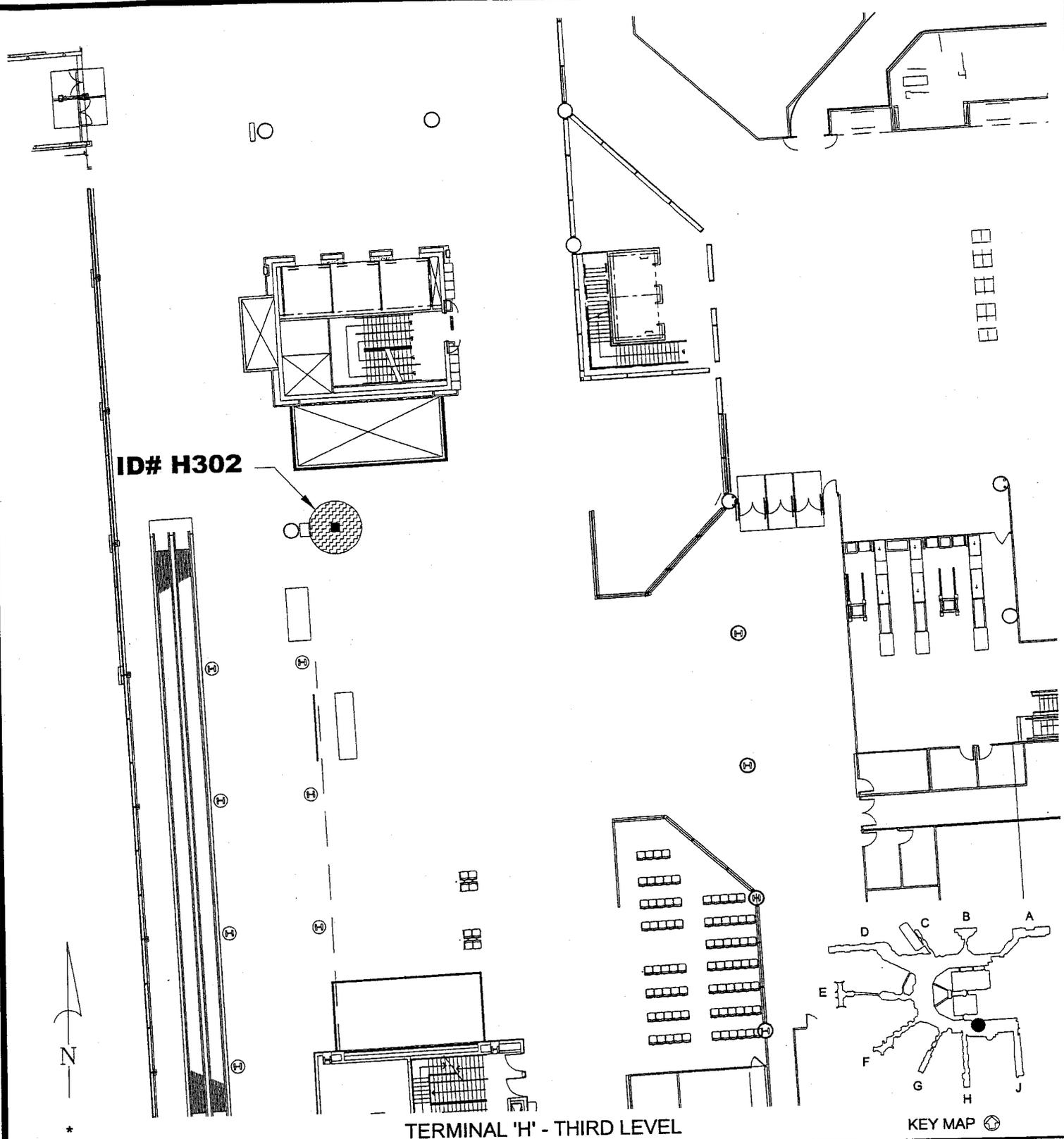
- FUTURE LOCATIONS
FOR PREPAID PHONE CARDS VENDING MACHINE ITB
FEBRUARY, 2005



169



TECHNICAL SUPPORT DIVISION



ID# H302

TERMINAL 'H' - THIRD LEVEL

KEY MAP

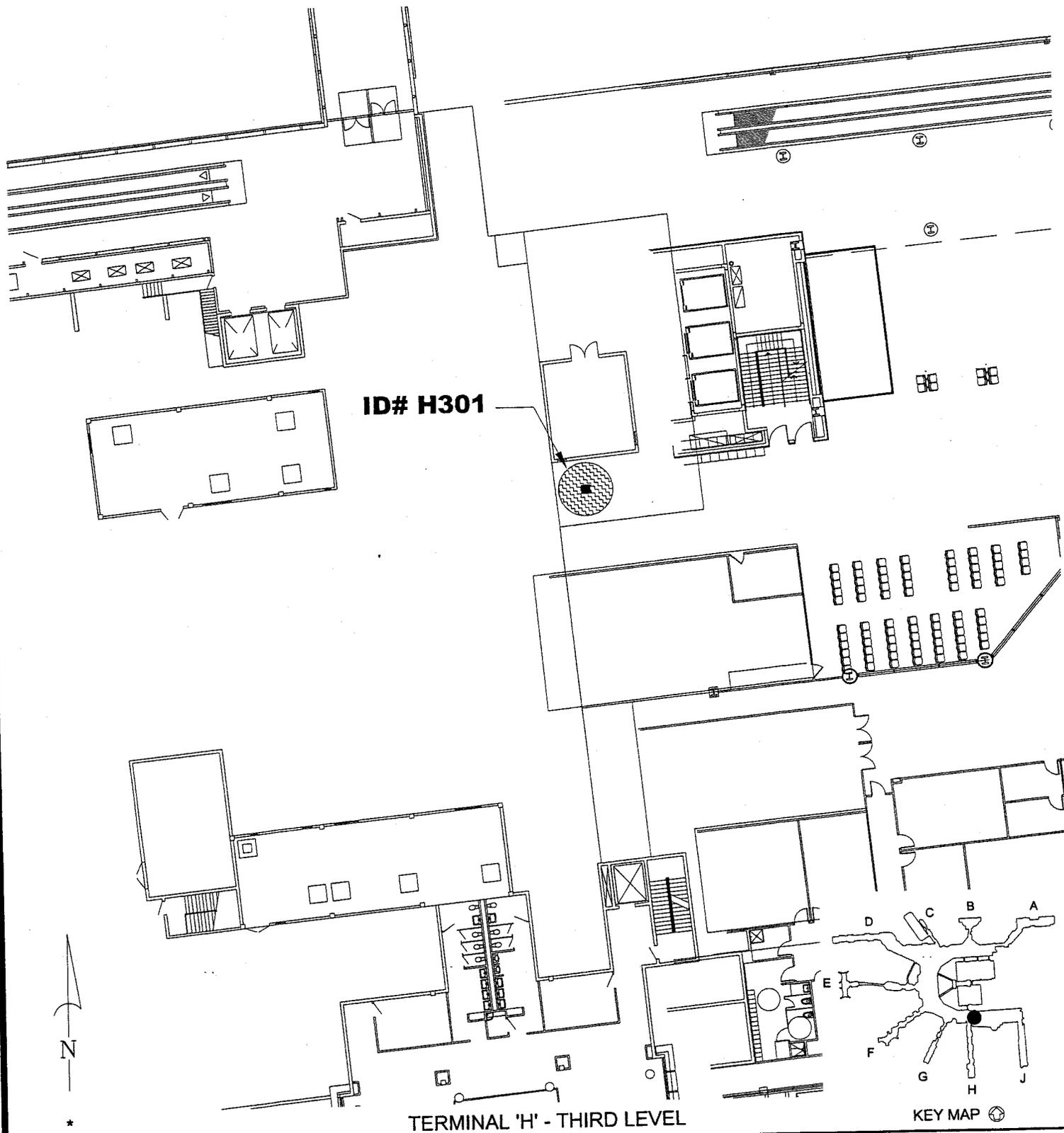
<u>CODE:</u>	<u>SPACE CLASS</u>	<u>SQ. FT.</u>
	VENDING MACHINE (2' x 3')	6

**MIAMI DADE
AVIATION DEPARTMENT
MIAMI INTERNATIONAL AIRPORT**

EXHIBIT A

**PRE-PAID PHONE CARDS
VENDING MACHINE ITB**

170



ID# H301

TERMINAL 'H' - THIRD LEVEL

KEY MAP

CODE:	SPACE CLASS	SQ. FT.
	VENDING MACHINE (2' x 3')	6

MIAMI DADE
 AVIATION DEPARTMENT
 MIAMI INTERNATIONAL AIRPORT

EXHIBIT A

**PRE-PAYD PHONE CARDS
 VENDING MACHINE ITB**

171

PERFORMANCE BOND FOR MAG REQUIREMENTS ("Bond")

EXHIBIT B

KNOW ALL MEN BY THESE PRESENTS, that we, _____
_____ as Principal, and _____
licensed to do business in the State of Florida as Surety, are held and firmly bound unto Miami-Dade County (Obligee), in the penal sum of _____
_____, \$ _____ (words and figures) of the Minimum Annual Guarantee as required in Section 3.01 of the Agreement entitled "Minimum Annual Guarantee", for the payment of which sum well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, and successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas by Agreement dated _____, Obligee has granted unto said Principal the right to operate a Prepaid Phone Card Concession at Miami International Airport and more fully described in said Agreement for a term as set forth in said Agreement, a copy of which is attached and made a part hereof.

NOW, THEREFORE, if Principal, its executors, administrators, successors and assigns shall faithfully perform the Agreement, according to the terms, stipulations and conditions thereof, then this Bond shall become, null and void; otherwise to remain in full force and effect.

Provided, however, this Bond shall be in full force and effect for the term commencing _____ and ending _____ but may be renewed annually thereafter by the Principal with written consent of the Surety by issuing a Continuation Certificate no later than thirty (30) days prior to the renewal date.

Provided further, however, that regardless of the number of years this Bond may be in force, the aggregate liability of the Surety shall not be cumulative and is limited to the stated penal sum.

Provided further, however, that in the event the Bond is not renewed, the liability of the Surety shall be limited to the actual damages sustained by the Obligee due to lack of performance of the Principal during the effective term of the Bond. The Surety shall not be held liable for any contract period beyond which it consents to in writing, as defined in the Agreement in Section 3.01 "Minimum Annual Guarantee", and Section 3.03 "Performance Bond/Security Deposit for MAG Requirements".

IN WITNESS WHEREOF, the above bounden parties have executed this Bond under their several seals, this ____ day of _____ the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

In The Presence Of:

Witness

Witness:

_____ (Seal)

By: _____

Surety: _____ (Seal)

By: _____

172

Miami Dade County
Miami Dade Aviation Department
Miami International Airport
May 9, 2002

**Tenant Airport Construction Non-Reimbursable Projects (TAC-N)
Design and Construction Procedures
EXHIBIT C**

Glossary of Terms

A/E	Tenant's State of Florida Registered Architect or Engineer responsible for the design of the project
GSA	General Service Administration
MARC	Miscellaneous Asbestos Recovery Contract
MCC/TAC	Miscellaneous Construction Contract/Tenant Airport Construction
MDAD	Miami Dade Aviation Department
NTP	Notice to Proceed
TAC-N	Tenant Airport Construction Non-reimbursable projects
Tenant	Business Partner, Lessee

General Information

If a tenant wants to improve or expand a leasehold area, the tenant must first contact an MDAD Properties or Commercial Operations Manager to discuss the improvement terms of the revision agreement if the project is acceptable to MDAD.

The MDAD Properties or Commercial Operations Manager will prepare a "QUICK-CHECK FORM" (with attachments), which will be submitted to the MDAD Development Division Manager and other divisions for review and approval. Special consideration is given to its impact upon other adjacent projects underway or proposed. The attachments that will accompany the "QUICK-CHECK FORM" will include but are not limited to the following:

- a. A completed TAC-N Project Information form, copy attached.
- b. Conceptual drawings/sketches.
- c. Tenant's letter which includes a description of the project, copies of a proposed schedule and cost estimate, plus a statement requesting MDAD to approve the conceptual project for design and construction.

Procedures-Design and Construction

1. The MDAD Development Division Manager will assign an MDAD Project Number to the project. If approved, the "QUICK-CHECK FORM" (with attachments) will be submitted to the Facilities Division Manager who will review and assign the project to the MCC/TAC Chief who will then direct the TAC-N Project Manager to monitor the design and construction activities of the project. The TAC-N Project Manager will contact the tenant upon receipt of the project and will forward the TAC-N procedures to the tenant.
2. It is the responsibility of the tenant through its A/E and/or Contractor, as applicable, to:
 - a. Obtain copies of MDAD Record (As-Built) Drawings from the MDAD Technical Support Division by calling 305.876.7057.
 - b. Verify field conditions including but not limited to electrical, mechanical, HVAC, plumbing, water, sewer, structural, connecting points for all utilities/HVAC/fire protection/smoke evacuation, etc.
 - c. Ensure that the design of the project is in compliance with the MDAD Design Guidelines Manuals (MIA Terminal projects only) Guidelines is available on the Internet at (www.miami-airport.com).
 - d. Obtain a copy of the MDAD Asbestos Status Report for the project from the MDAD Environmental Engineering Division. Please call 305.876.8326 to request the report. This report is required by the Miami Dade Building Department for permitting and must be submitted along with the application for a building permit and two sets of plans, signed and sealed by the A/E of Record.
 - e. Coordinate schedules and locations for MIA terminal deliveries at the 2nd floor curbside with MDAD Landside Operations Division. Please call 305.876.7086 for coordination.
 - f. Coordinate schedules and construction within the MIA terminal with the MDAD Terminal Operations Division. Please call 305.876.7082 for coordination.
 - g. Coordinate airside accesses requirements with MDAD Airside Operations Division. Please call 305.876.7482 for coordination.
 - h. Coordinate the issuance of MDAD photo ID badges and requirements for orientation regarding airport security with the MDAD Safety and Security Operations Division. Please call 305.869.4028 for coordination.
 - i. Coordinate "SHUTDOWN PROCEDURES" with the MDAD Engineering Maintenance Division. Please call 305.876.7477 for coordination.
 - j. Coordinate requirements and specific procedures relating to permitting for DERM, DEP, dewatering excavating, trenching, stockpiling, maintenance and disposal of contaminated material. With the MDAD Environmental and Airport Engineering Division. Please call 305.869.1063 for coordination.

3. The tenant or the tenant's A/E of Record shall:
- a. Submit 10 sets of 100% construction documents to the TAC-N Project Manager for review. Each sheet of the submitted plans shall be identified with a title box that includes the name, address, and telephone/fax numbers of the owner as follows:

Property Owner: Miami Dade Aviation Department
MDAD Project Manager:
Address: P.O. Box 592075, Miami, Florida 33159

Tel: _____
Fax: 305.876.0996

Project Owner/Lessee: _____

Tenant's Project Manager: _____

Address: _____

Tel: _____

Fax: _____

The TAC-N Project Manager will submit the sets of construction documents to Consultants and MDAD Staff for a Design Review. This process has a duration period of fourteen (14) calendar days. The Reviewers will fax any issues/comments to the tenant's A/E of Record and to the TAC-N Project Manager within fourteen (14) calendar days of receipt of the plans. The tenant or the tenant's A/E of Record shall confirm receipt of Review Comments with the TAC-N Project Manager on the fifteenth (15) day.

- b. Address the Reviewer's issues/comments to the satisfaction of both parties by fax, meetings, telephone conversations, etc.
- c. Revise the construction documents to reflect the changes required by the Design Reviewers. Submit three sets of 100% construction documents, one (1) of which must be signed and sealed by the tenant's A/E of Record. Reviewers must sign the 100% Back Check form, and return it to the A/E and TAC-N Project Manager.

The TAC-N Project Manager will review the submittals. The MCC/TAC Chief will then provide the "Letter of Concurrence" to the tenant in order to apply for a building permit for its project. This letter is valid for a period of sixty (60) calendar days from the date of issuance. If the tenant or his A/E of Record has not applied for a building permit within the sixty (60) calendar days, the Letter of Concurrence will have to be reissued.

- d. Provide the Miami Dade Building Department located at Building 5A, 4th Floor, MIA, with a Building Permit application, the TAC-N Letter of Concurrence, a copy of the MARC Report (if required) and two (2) signed and sealed 100% permit sets of the project construction documents. For additional information, please call 305.869.1363.
- e. The TAC-N Project Manager will advise the tenant of the Miami Dade GSA, Risk Management Division's insurance requirements. Prior to commencement of construction, provide the TAC-N Project Manager copies of all Certificates of Insurance as required.
- f. Submit copies of the Construction Schedule, Design and Construction Budget (Update), and Building Permit to the TAC-N Project Manager prior to commencement of construction.

4. Pre-Construction and Construction Meetings

The TAC-N Project Manager will determine, based on the complexity and magnitude of the project, if a pre-construction meeting is required and if regular construction meetings will be required. If required, the frequency of the construction meetings will be established based on the complexity and duration of the project. Attending the meetings will be the tenant's A/E and contractor, the MDAD representative and others as may be required. If no regular scheduled construction meetings are held, the TAC-N Project Manager or his designee will periodically visit the jobsite. The permit set of drawings is required to be kept and available on the construction site at all times.

5. Project Close-Out

If required, a walk through is scheduled and coordinated through the TAC-N Project Manager. It is the responsibility of the tenant to submit copies of the following, as applicable, to the TAC-N Project Manager:

- a. The signed-off building permit (inspections) within 24 hours of its issuance.
- b. Certificate of Occupancy or Completion within 24 hours of its issuance.
- c. Warranties, manuals, instructions, etc., of any equipment that will be maintained by MDAD.
- d. Record Drawings (As-Built drawings) on Bond paper, two (2) signed and sealed set prepared by the tenant's architect of Record within thirty (30) days from the issuance date of the Certificate of Occupancy or Completion.
- e. Depending upon the size or complexity of the project, the tenant may be requested to provide the TAC-N Project Manager with As-Built Mylar's, 35mm aperture cards or digital files for the project.

The TAC-N Project Manager and the tenant will closeout the project. All documents must be received by the TAC-N Project Manager from the tenant prior to project closeout.

EXHIBIT D
Sample Management Letter

Independent Auditor's Report

Board of Directors
XYZ Corporation

In planning and performing our audit of the Schedule of Gross Revenues and Percentage Fees Paid to the County of XYZ Corporation for the year ended _____xx, 20xx, we considered its internal control structure in order to determine our auditing procedures for the purpose of expressing our opinion of the Schedule of Gross Revenues and Percentage Fees Paid to the County and not to provide assurance on the internal control structure. Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be material weaknesses under the standards established by the American Institute of Certified Public Accountants.

A material weakness is a condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the Schedule of Gross Revenues and Percentage Fees Paid to the County being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. However, we noted no matters involving the internal control structure and its operation that we consider to be material weaknesses as defines above.

This report is intended solely for the information and use of the Board of Directors and management of XYZ Corporation and Miami-Dade County, Florida and should not be used for any other purpose.

ABC & DEF, CPA's
_____ xx, 20xx

Sample Audit Report

Independent Auditor's Report

Board of Directors
XYZ Corporation

We have audited the accompanying Schedule of Gross Revenues and Percentage Fees Paid to the County (as defined in the Lease and Concession Agreement between Miami-Dade County Florida and XYZ Corporation) of XYZ Corporation for the year ended _____ xx, 20xx. This schedule is the responsibility of XYZ Corporation's management. Our responsibility is to express an opinion on this schedule base on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Schedule of Gross Revenues and Percentage Fess Paid to the County is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the schedule. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall schedule presentation. We believe that our audit provides basis for our opinion.

In our opinion, the Schedule of Gross Revenues and Percentage Fees Paid to the County referred to above presents fairly, in all material respects, the gross revenues of XZ Corporation for the year ended _____ x, 20xx and the related fees paid, as defined in the Lease and Concession Agreement referred to in the first paragraph.

This report is intended solely for the information and use of the Board of Directors and management of XYZ Corporation and Miami-Dade County, Florida and should not be used or any other purpose.

ABC & DEF, CPA's
_____ xx, 20xx

Sample Compliance Letter

Independent Auditor's Report

Board of Directors
XYZ Corporation

We have audited, in accordance with generally accepted auditing standards, the Schedule of Gross Revenues and Percentage Fees Paid to the County of XYZ Corporation for the year ended _____ xx, 20xx and have issued our report thereon, dated _____ xx, 20xx. We have not performed any substantive audit procedures beyond the date of our report on the Schedule of Gross Revenues and Percentage Fees Paid to the County. Accordingly, this report is based on our knowledge as of that date and should be read with that understanding.

In connection with our audit, nothing came to our attention that caused us to believe that XYZ Corporation failed to comply with the term of the Lease and Concession Agreement with Miami-Dade County, Florida insofar as they relate to the Company's book of accounts, records and reports. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance.

This report is intended solely for the information and use of the Board of Directors and management of XYZ Corporation and Miami-Dade County, Florida and should not be used for any other purpose.

ABC & DEF, CPA's
_____ xx, 20xx

EXHIBIT E

MONTHLY REPORT OF GROSS REVENUES

(Due on or before the tenth (10th) calendar day following the end of each month)

MONTH OF: _____ **YEAR 20** _____

To: Miami-Dade Aviation Department
P. O. Box 592616
Miami, Florida 33159-2616
Attn: Finance Division

From: Company Name
Address
City, State, Zip Code
Lease No.

Total Gross Revenues \$ _____

Percentage Fee Rate _____

Total % Fee _____

Less: Monthly Minimum Guarantee _____

% Fee Due in Excess of MMG _____

Payment included in Check No.: _____ Amount Paid: _____ Dated: _____

Percentage Fee
25%

Gross Revenues

I hereby certify that the above statement is true and correct

Signature

Title

Date

*The Department reserves the right to modify this form at any time.

181

EXHIBIT F
LOBBYING RULES

1.1 Purpose and Scope of Lobbying Rules

- a) The following rules delineate the responsibilities of lobbyists and County personnel in implementing the requirements of the lobbying section of the Conflict of Interest and Code of Ethics ordinance.

1.2 Definition of "Lobbyist"

- a) A lobbyist is any person, firm or corporation employed or retained by a principal that seeks to encourage the passage, defeat or modification of
 - 1) any ordinance, resolution, action or decision of the County Commission;
 - 2) any action, decision, or recommendation of the County Manager or any County board or committee; or
 - 3) any action, decision, or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities.

1.3 Exclusions

- a) Attorneys or other representatives retained or employed solely for the purpose of representing individuals, corporations or other entities during publicly noticed quasi-judicial proceedings where the law prohibits ex-parte communication. A quasi-judicial proceeding is a hearing before a County or municipal commission or board where the rights of particular persons or entities are determined and for which prior notice, the opportunity to be heard and the introduction and evaluation of evidence are required (e.g. Value Adjustment Board, Community Zoning Appeals Board, Equal Opportunity Board).
- b) Expert witnesses who provide only scientific, technical or other specialized information or testimony in public meetings. An expert witness is a person duly and regularly engaged in the practice of a profession who holds a professional degree from a university or college and special training or experience, or a person who is possessed of special knowledge or skill about the subject.
- c) A representative of a neighborhood association who appears without compensation or reimbursement, whether direct, indirect or contingent, to express support of or opposition to any item. A neighborhood association is an organization of residential homeowners and tenants created to address quality of life issues in a defined neighborhood or community.
- d) A representative of a not-for-profit community based organization for the purpose of requesting a grant, without special compensation or reimbursement for the appearance. A community based organization is a not-for-profit association or

corporation organized under state or local law to engage in community development activities (including, but not limited to, housing and economic development activities) and has as its primary purpose the improvement of the physical, economic or social environment by addressing one or more of the critical needs of the area, with particular attention to the needs of people with low or moderate incomes

- e) Employees of a principal whose normal scope of employment does not include lobbying activities.

1.4 Examples of Lobbying Activities

- a) Lobbying activities include but are not limited to:
 - 1) Meetings or communication with elected officials or staff regarding a particular solicitation or product (i.e. time frames for the solicitation, specifications, qualifications, etc.).
 - 2) Meetings or communication with elected officials or staff to discuss issues regarding a prior or ongoing solicitation or contract when a resolution of the matter may require approval of the Board of County Commissioners, the County Manager and his or her designee or a County board or committee.
 - 3) Meetings or communication with elected officials or staff regarding any matter where the lobbyist is seeking to influence a decision or recommendation of staff on any matter that will require action or decision by the Board of County Commissioners, the County Manager or any County board or committee.
 - 4) Meetings or communication with elected officials or staff regarding policy matters that may foreseeably before the Board of County Commissioners, the County Manager or any County board or committee.

1.5 Examples of Activities Not Constituting Lobbying

- a) Activities that do not constitute lobbying include but are not limited to the following:
 - 1) Requests for information about procedures, forms, budgets or other requirements on behalf of another
 - 2) Appearances at meetings or communications with staff or an elected official at the department or elected official are request or a description of materials or services available in response to a departmental request.
 - 3) Advices or services communicated to a department or an elected official which arise out of an existing contractual obligation to the county or municipality.
 - 4) Meetings or communication to provide staff or elected officials with general information regarding a firm's background or expertise.

1.6 General Registration Requirements

- a) Every lobbyist must file an annual registration form with the Clerk at the time of initial registration and on or before January 15th of each year thereafter, along with an annual registration fee of four hundred and ninety dollars (\$490.00).
- b) Every lobbyist must file a registration form with the Clerk of the Board for each client within five days of being retained by a principal or before conducting any lobbying activities, whichever comes first.
- c) The principal must also submit a principal authorization form prior to any lobbying. The principal must identify whether the lobbyist is retained for a particular matter or may lobby on any matter regarding the principal.
- d) Every lobbyist must file a Notice of Withdrawal when the representation ends. The lobbyist must file an expenditure statement for the preceding year.

1.7 Selection Committee Registration Requirements

- a) Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection n, technical review or similar committee shall list on an affidavit provided by the County, all individuals who may make a presentation. The affidavit shall be filed with the Clerk of Board at the time the response is submitted.
- b) The individual or firm must submit a revised affidavit for any additional team members with the Clerk of the Board at least 2 days prior to the oral presentation. Any person not listed on the revised affidavit or who is not a registered lobbyist will not be permitted to participate in the oral presentation.
- c) All additional team members, who are lobbyists, as defined herein, must file a principal authorization form (for the individual or entity) with the Clerk of the Board of County Commissioners prior to the oral presentation.

1.8 Not for Profit Registration Requirements

- a) A lobbyist for a not-for-profit organization (unless lobbying for a community-based organization seeking grant funds) must register and file the required expenditure form. Upon request, the Clerk of the Board may waive the applicable registration fees.

1.9 Expenditure Reports

- a) All registered lobbyists must file an expenditure report with the Clerk of the Board by July 1st of each year. The date of filing is the date that the report is received by the Clerk's office.
- b) A lobbyist must file a report for every principal and must list all expenditures in excess of twenty-five dollars (\$25.00) for the preceding calendar year. The form must be filed even if the lobbyist did not make any expenditures during the prior year.

1.10 Expenditure Categories

- a) The lobbyist must report expenditures in the following categories: communications, entertainment, food and beverages, lodging, media advertising, publications and other. The information covered in each category is:
- 1) "Communications" means dissemination of information, including but not limited to the following means: audio-visual materials, signs, placards, buttons, promotional materials, or other display materials; together with any associated production services. This category does not include media advertising, publications or research.
 - 2) "Entertainment" means amusement or recreation including but not limited to sporting, hunting, fishing, theatrical, artistic, cultural and musical activities or events.
 - 3) "Food and Beverages" means meals, snacks or edible substances or liquids for drinking including services associated therewith.
 - 4) "Lodging" means sleeping or living accommodations for an individual for one or more nights.
 - 5) "Media advertising" means newspaper and magazine advertising, radio and television advertising and outdoor advertising including production services and copywriting services.
 - 6) "Other" means any item or service which is not included in one of the specified categories; this category does not include any item or service which is not required by law to be reported.
 - 7) "Publications" means mass-produced, printed materials including but not limited to magazines, newsletters, brochures or pamphlets, which expressly encourage to communicate with agency officials or employees or to influence an agency with respect to a decision of the agency in the area of policy or procurement or which are designed to communicate with agency officials or employees.
 - 8) "Research" means obtaining information relating to a specific policy issue or procurement matter regardless of the form or medium in which such information is provided including, but not limited to, surveys, information services, periodicals and consultants or consultant services to gather data or statistics.
 - 9) "Special Events" means large scale functions, including but not limited to receptions, banquets, dinners or fairs to which more than 250 persons are invited and for which the expenditures associated with hosting the function are negotiated with a catering service or facility at a single, set price or which include multiple expenditure categories.
 - 10) "Travel" means transporting an individual from, one place to another, regardless of the means used.

- b) Certain items such as communications, publications and research are office expenses if performed by the lobbyist or principal or their employees. If those functions are performed by independent contractors, other than the lobbyist or principal or an affiliate controlled by the principal, they are reportable under the appropriate expenditure category.
- c) If an expense is incurred for a business purpose unrelated to lobbying and the product of that expense is later used for a lobbying purpose, the expenditure does not have to be reported.

1.11 Penalties for Late Filing

- a) A late fee of fifty dollars per day per report will automatically be assessed for any report filed after the due date. All fines must be paid to the Clerk of the Board of County Commissioners.
- b) The Clerk of the Board of County Commissioners will notify all lobbyists who have failed to file by July 15th of each year that they are not in compliance with the ordinance and of the current fines assessed against the lobbyist.
- c) A lobbyist is automatically suspended and may not lobby any employee, elected official or before any County board (including the Board of County Commissioners) if the lobbyist has not filed an expenditure report by September 1st of each year.
- d) The Clerk of the Board of County Commissioners must provide the Ethics Commission with a report listing all lobbyists who have either failed to file disclosure reports or pay assessed fines by October 1st of each calendar year. The Ethics Commission will provide the list to the Commission Advocate who may initiate complaint proceedings against any lobbyist for failure to file an expenditure report and/or pay assessed fines.

1.12 Appeals

- a) Any lobbyist may appeal a fine and request a hearing before the Ethics Commission by filing an appeal with the Ethics Commission within fifteen days receipt of the Notice of Violation. Late fees will continue to accrue after an appeal unless the required forms are filed.
- b) The lobbyist must mail or fax a letter to the Executive Director of the Ethics Commission stating the reasons for the appeal. The lobbyist must include in his or her notice of appeal any request for a hearing before the Ethics Commission. The lobbyist must attach any documentation or evidence for consideration by the Ethics Commission in making a determination on the appeal at the time the notice of appeal is filed.
- c) The Ethics Commission may delegate determinations of appeals without a request for hearing to Commission staff. The staff may have the authority to waive fines in whole or part for good cause shown. Any determinations by staff must be ratified by the Ethics Commission or a committee appointed by the Chair.

- d) A hearing on an appeal under this ordinance may be heard by a committee appointed by the Chair or the Ethics Commission as a whole. The Ethics Commission may waive any fines, in whole or part, for good cause shown.

1.13 Contingency Fees

- a) After May 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
- b) A contingency fee is a fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Manager or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee.

1.14 Departmental Responsibilities

- a) All departments and agencies must maintain a visitor log for anyone seeking to do business with the department or agency or seeking administrative action from the department or agency. The log should include information regarding the name of the visitor, the staff person or persons visited and the purpose of the visit (i.e. name of matter or agenda item number).
- b) All elected officials, board members and employees shall be diligent to ascertain whether persons appearing before them have registered as lobbyists. County personnel may check on a lobbyist's status through the Lobbyist Registration section of the Metronet or by calling the Clerk of the Board of County Commissioners. Elected officials, board members and employees may not knowingly permit a person who is not registered to lobby them regarding an issue.

1.15 Penalties for Lobbying Violations

- a) The Ethics Commission may prohibit any lobbyist who commits a lobbying violation from lobbying before the Board of County Commissioners or any committee, board or personnel of the Miami-Dade County for a period of: 1) ninety days following determination of the first violation; 2) one year following determination of the second violation and 3) five years from determination of the third violation.
- b) Any lobbyist who commits a lobbying violation is also subject to a two hundred and fifty-dollar fine for the first violation and a five hundred-dollar fine for the second violation.

- c) The County Manager or the Board of County Commissioners may void any contract where a lobbying violation has occurred.