

MEMORANDUM

Special Item No. 1

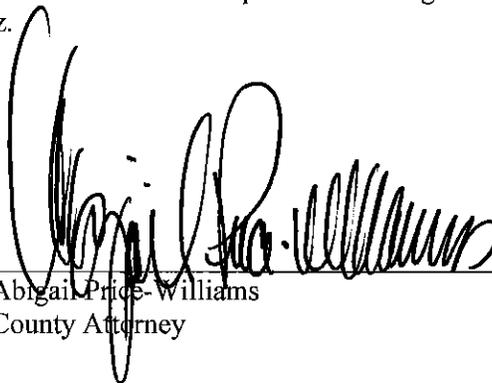
TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 6, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving and authorizing the County Mayor to execute Amendment No. 1 to the Terminal Operating Agreement between Miami-Dade County and Terminal Link (Miami) LLC ("TLM"); modifying terminal area size and configuration; authorizing relocation of portion of current terminal access road and related canopies and infrastructure at County's expense; expanding eligibility for discount provisions; delegating limited sublease approval authority to Port Director, including associated right to grant temporary ground rent credits estimated not to exceed \$530,000.00; delegating limited authority to Port Director to adjust TLM terminal area as needed to improve port operations, not to exceed five acres in aggregate, upon mutual written agreement between the Port Director and TLM; and authorizing the County Mayor to exercise all rights conferred in Amendment No. 1

The accompanying resolution was prepared by the Port of Miami and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.

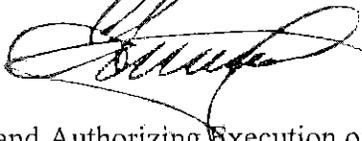


Abigail Price-Williams
County Attorney

APW/cp

Date: July 6, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Approving and Authorizing Execution of Amendment No. 1 to Terminal Agreement between Miami-Dade County and Terminal Link (Miami) LLC

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the accompanying resolution approving and authorizing the execution of Amendment No. 1 (Amendment) to the Terminal Operating Agreement (Agreement) between Miami-Dade County (County) and Terminal Link (Miami) LLC (TLM) modifying TLM's terminal size and configuration, providing for the relocation of a portion of the existing terminal access road and related infrastructure, in connection with the construction of Cruise Terminal A, at County's expense, expanding eligibility for TEU discount provisions, and delegating limited authority to the PortMiami (Port) Director to approve certain subleases and make minor adjustments to the TLM Terminal Area, not to exceed five (5) acres, as may be needed to improve Port operations.

This Amendment proposes changes to TLM's terminal operating footprint by memorializing the addition of 9.8 acres to TLM that were transferred in January 2014. It also provides for the future deletion of a 1.25 acre parcel and the relocation of a portion of the existing terminal access road, to accommodate the future construction of Cruise Terminal A. The deletion of the 1.25 acre parcel from TLM's Terminal Area will be offset by a 1.63 acre replacement parcel. Additionally, TLM elected to remove a 0.50 acre parcel that was no longer needed, which will be used by the Port's gantry crane maintenance operator.

SCOPE

The Port is located within District 5, which is represented by Commissioner Bruno A. Barreiro. The impact of this agenda item is countywide, as the Port is a regional asset and generates employment for residents throughout Miami-Dade County.

FISCAL IMPACT/FUNDING SOURCE

The fiscal impact of the 9.8 acres being added to TLM was disclosed during the presentation of the Port of Miami Terminal Operating Company, L.C. (POMTOC) restated Terminal Agreement in 2013, which the Board approved via Resolution No. R-1051-13. Additionally, the transfer of acreage from POMTOC to TLM will not have a fiscal impact to the Port, as both terminals have equivalent land rental and TEU throughput rates.

The net fiscal impact of deleting the 1.25 acres, removing the 0.50 acres, and replacing the deleted and removed acreage with a 1.63 acre parcel of equally functional terminal land is approximately \$10,000.00 in decreased annual operating revenue to the Port. This is based on a net decrease of 0.12 acres that includes decreased annual rental revenues of \$8,000.00 and decreased annual throughput TEU revenues of \$2,000.00.

The Amendment also provides for the replacement (or relocation) of the Operator's existing access road with an alternate access road. The estimated cost of replacing the existing access road is approximately \$2.6 million, and includes the roadway relocation costs for both TLM and POMTOC, as well as fencing, canopies, and other related property relocation and/or replacement costs. The roadway relocation cost of \$2.6 million will be funded by previously issued Port Revenue Bonds.

This Amendment also proposes delegating to the Port Director the authority to approve, in writing, future subleases of portions of TLM's terminal area to other on-Port terminal operators or tenants. This authority is limited to the duration of two (2) years (longer if necessary to complete demolition of Shed E), but capped at five (5) acres per sublease and 10 acres in aggregate, provided further that such subleases must be determined necessary to accommodate the construction and/or operating requirements of proposed new Cruise Terminal A by the Port Director. The amendment also authorizes the Port Director to grant pro rata ground rent credits, not to exceed 18 - month duration or five (5) acres in size, in connection with the above-described limited authority to approve certain terminal Area subleases. If the potential subleases are approved at the maximum allowed levels, the estimated cost of such credits would be approximately \$530,000.00.

Lastly, this Amendment expands eligibility for already-existing TEU discount provisions, by allowing TLM to have tiered pricing discounts on third party cargo that will mirror the eligibility for volume discounts found in the POMTOC terminal agreement. The fiscal impact of granting discount pricing tiers for third party cargo is approximately \$200,000.00 in any given year, and will be absorbed by the Port through TLM's anticipated ability to increase cargo throughput by passing these discounts either directly or indirectly to the third party cargo shipping lines.

DELEGATED AUTHORITY

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of the Board authority, there are no delegations beyond those specified in the resolution, which include the authority for the County Mayor or his designee to execute the Amendment. This resolution also authorizes the Port Director to approve, in writing, certain future subleases of portions of the TLM Terminal Area to other on-Port terminal operators, provided such potential future subleases do not involve more than five (5) acres of Port land per sublease or more than 10 acres in aggregate, and further subject to certain durational and other limits set forth in the Amendment. This resolution also, in connection with such delegated sublease approval rights, authorizes the Port Director to grant associated and temporary pro rata ground rent credits to TLM, not to exceed 18 months in duration or five (5) acres in size, in aggregate. Additionally, this resolution delegates to the Port Director the limited authority to make minor adjustments to the size, location, and/or configuration of the TLM Terminal Area as may be required to improve Port operations, not to exceed five (5) acres in aggregate, upon mutual written agreement between Port Director and TLM.

TRACK RECORD/MONITOR

The staff members responsible for monitoring the Agreement are Juan Kuryla, Port Director; Kevin Lynskey, Deputy Port Director; and Hydi Webb, Assistant Director.

BACKGROUND

On July 1, 2008, the Board approved (via adoption of Resolution R-763-08) a Terminal Operating Agreement with TLM that had a commencement date of July 12, 2008. The Terminal Operating Agreement provided for several terms that included escalating land rental rates, escalating minimum throughput guarantees, escalating TEU rates, commitment to an annual minimum gantry crane guarantee, and an initial term of 15 years with two (2) potential and conditioned five-year options to renew.

At this time, the Port and TLM wish to enter into an Amendment to the Agreement. While the principal goal of this Amendment is to modify TLM's footprint to accommodate requirements of building planned Cruise Terminal A, other favorable and clean up terms are added that include memorializing the addition of 9.8 acres to the TLM Terminal Area; removing a portion of TLM's existing access road and replacing it, at the County's expense, with an alternate access roadway; expanding the applicability of already-existing volume based Discount TEU rates to apply to third party cargo to more closely match the eligibility of volume based discounts found in the POMTOC terminal agreement; and adding a provision delegating to the Port Director limited authority to approve certain potential temporary subleases subject to size, durational, and other limits set forth in the Amendment.

Section 3 of Resolution No. R-333-15 requires a market rental comparison be provided with a proposed County lease. The Board approved the original TLM Agreement July 1, 2008, which stipulated a ground rental rate per square foot that was derived from a 2007 market rental analysis. Additionally, the original Agreement included contractual provisions to escalate the ground rental rate by three (3) percent a year. This Amendment does not propose a change in the ground rental rates or the escalating provisions.

The Port is recognized as a world-class port with a diversity of shipping lines and cruise brands. The proposed Amendment better utilizes the Port's most valuable asset, its land, to bring forth increased cruise berth availability while creating efficiencies in our cargo terminal yards.



Jack Osterholt
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 6, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Special Item No. 1

Please note any items checked.

- "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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Special Item No. 1
7-6-16

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE AMENDMENT NO. 1 TO THE TERMINAL OPERATING AGREEMENT BETWEEN MIAMI-DADE COUNTY AND TERMINAL LINK (MIAMI) LLC ("TLM"); MODIFYING TERMINAL AREA SIZE AND CONFIGURATION; AUTHORIZING RELOCATION OF PORTION OF CURRENT TERMINAL ACCESS ROAD AND RELATED CANOPIES AND INFRASTRUCTURE AT COUNTY'S EXPENSE; EXPANDING ELIGIBILITY FOR DISCOUNT PROVISIONS; DELEGATING LIMITED SUBLEASE APPROVAL AUTHORITY TO PORT DIRECTOR, INCLUDING ASSOCIATED RIGHT TO GRANT TEMPORARY GROUND RENT CREDITS ESTIMATED NOT TO EXCEED \$530,000.00; DELEGATING LIMITED AUTHORITY TO PORT DIRECTOR TO ADJUST TLM TERMINAL AREA AS NEEDED TO IMPROVE PORT OPERATIONS, NOT TO EXCEED FIVE ACRES IN AGGREGATE, UPON MUTUAL WRITTEN AGREEMENT BETWEEN THE PORT DIRECTOR AND TLM; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL RIGHTS CONFERRED IN AMENDMENT NO. 1

WHEREAS, this 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:

Section 1. Approves and authorizes the County Mayor or the County Mayor's designee to execute Amendment No. 1 ("Amendment") to the Terminal Operating Agreement ("Agreement") between Miami-Dade County and Terminal Link (Miami) LLC ("TLM") on behalf of Miami-Dade County, in substantially the form attached hereto and made part hereof,

which, among other things, modifies the terminal area size and configuration, authorizes the relocation of a portion of the current terminal access road and related canopies and infrastructure at the County's expense and expands eligibility for discount provisions. The County Mayor or County Mayor's designee is further authorized to exercise all rights conferred in said Amendment No. 1.

Section 2. Delegates to the Port Director the limited authority to approve potential future subleases between TLM and other on-Port terminal operators or tenants of portions of the TLM Terminal Area or other Port property held by TLM, subject to certain size and durational limits set forth in the Amendment and further subject to the Port Director's required written finding that such sublease(s) are necessary to accommodate the construction and/or requirements of proposed cruise terminal A, and, in connection therewith, authorizes the Port Director to grant TLM certain associated temporary pro rata ground rent credits, not to exceed eighteen months in duration or five acres in size, estimated not to exceed \$530,000.00 in aggregate.

Section 3. Delegates to the Port Director the limited authority to make minor adjustments to the size, location, and/or configuration of the TLM Terminal Area as may be required to improve Port operations, not to exceed five acres in aggregate, upon mutual written agreement between the Port Director and TLM.

Section 4. This Board directs the County Mayor or County Mayor's designee to provide a copy of the amended Agreement to the Miami-Dade County Property Appraiser's Office within 30 days of execution.

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:

- | | |
|-------------------------------------|----------------------|
| Jean Monestime, Chairman | |
| Esteban L. Bovo, Jr., Vice Chairman | |
| Bruno A. Barreiro | Daniella Levine Cava |
| Jose "Pepe" Diaz | Audrey M. Edmonson |
| Sally A. Heyman | Barbara J. Jordan |
| Dennis C. Moss | Rebeca Sosa |
| Sen. Javier D. Souto | Xavier L. Suarez |
| Juan C. Zapata | |

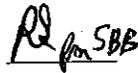
The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of July, 2016. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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.



Steven B. Bass



Agreed Version

[Signature] 20/02/16

AMENDMENT NO. 1 TO TERMINAL OPERATING AGREEMENT BETWEEN MIAMI-DADE COUNTY AND TERMINAL LINK (MIAMI) LLC

This Amendment No. 1 to the Terminal Operating Agreement between Miami-Dade County and Terminal Link (Miami) LLC is hereby made and entered into as of this ____ day of _____, 2016, by and between Miami-Dade County, Florida ("County"), and Terminal Link (Miami) LLC, a Delaware Limited Liability Company registered and authorized to do business in the State of Florida (hereafter, "Terminal Operator" or "Operator"), by and through their authorized representatives in accordance with the terms, conditions, and covenants contained herein. The County and Operator are jointly referred to as "the Parties."

RECITALS

WHEREAS, the Board of County Commissioners of Miami-Dade County approved a Terminal Operating Agreement ("Agreement") between the County and Operator on or about July 1, 2008 (via adoption of Resolution R-763-08); and

WHEREAS, the Parties thereafter entered into the subject Agreement on or about July 12, 2008; and

WHEREAS, the Parties now wish to amend their Agreement to modify the size and configuration of the Terminal Area and modify Exhibit B to the original Agreement as expressly set forth herein below;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and agreements hereinafter contained, the Parties hereto mutually covenant and agree to amend the Agreement as follows:

Section 1. Rules of Construction.

For all purposes of this Amendment No. 1, unless otherwise expressly provided:

[Handwritten initials]

- A) A term has the meaning assigned to it;
- B) An accounting term not otherwise defined has the meaning ordinarily given to it by accountants in accordance with generally accepted accounting principles;
- C) Words in the singular include the plural, and words in the plural include the singular;
- D) A pronoun in one gender includes and applies to other genders as well; and
- E) The terms "hereunder," "herein," "hereof," "hereto" and such similar terms shall refer to the instant Amendment No. 1 to the Agreement in its entirety and not to individual sections or articles; and
- F) The Parties hereto agree that this Amendment No. 1 to the Agreement shall not be more strictly construed against either the County or the Terminal Operator.

Section 2. Definitions: Other than the definitions enumerated herein below, capitalized terms used herein shall have the definitions set forth in the Agreement.

"Added Parcel" shall mean the approximately 9.8 acre parcel of Port land identified in Exhibit 1 hereto, which is to be added to the definition of Terminal Area as of the Amendment No. 1 Effective Date.

"Alternate Road" shall have the meaning provided in Section 7 of this Amendment No. 1, to be located generally within the footprint area identified in Exhibit 2 hereto as "Alternate Roadway". For avoidance of doubt, the Alternate Road will be a public road and shall not be part of the Terminal Area.

"Amendment No. 1" shall mean this Amendment No. 1 to the previously executed Terminal Operating Agreement between Miami-Dade County and Terminal Link (Miami) LLC. ("TLM") approved and authorized by County Resolution R-763-08.



"Canopies" shall have the meaning provided in Section 7 of this Amendment No. 1.

"Deletion Date" shall mean the date provided in the Deletion Notice, prior to which Operator must fully vacate the Deleted Parcel in accordance with all requirements of this Amendment No. 1, provided, however, that the Deletion Date (i) must be at least thirty (30) calendar days later than the date of the Deletion Notice and (ii) may not occur prior to the Alternate Road becoming operational and the Canopies being relocated to the New Canopy Locations.

"Deletion Notice" shall mean the written notice from the Port Director or his designee to Mark Baker (Operator's designated terminal manager), or other person identified in the Agreement to receive notices on behalf of Operator, directing Operator to vacate the Deleted Parcel prior to the Deletion Date.

"Deleted Parcel" shall mean the approximately 1.25 acre parcel of Port land identified in Exhibit 1 hereto, which the parties agree shall be permanently deleted from the Terminal Area as of the Deletion Date.

"Effective Date of Amendment No. 1" shall have the meaning provided in Section 13 of this Amendment No. 1.

"Existing Road" shall have the meaning provided in Section 7 of this Amendment No. 1, as further identified in Exhibit 2 hereto.

"New Canopy Locations" shall have the meaning provided in Subsection 7B of this Amendment No. 1.

"Removed Parcel" shall mean the approximately one-half (.50) acre portion of the original Terminal Area identified on Exhibit 1 hereto, which shall be permanently deleted from the Terminal Area as of the Effective Date of Amendment No. 1.

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"Replacement Parcel" shall mean the 1.63 acre parcel identified in Exhibit 1, which is to be added to the definition of Terminal Area as of the Replacement Parcel Date.

"Replacement Parcel Date" shall mean the earlier of (i) the Deletion Date or (ii) such earlier date as may be designated in writing by the Port Director, in his sole discretion, and transmitted by said Director or his designee to Mark Baker (the Operator's designated terminal manager) or other person identified in the Agreement to receive notices on behalf of Operator.

"Terminal Agreement" or "Agreement" shall mean the terminal operating agreement between Miami-Dade County and Terminal Link (Miami) LLC executed on or about July 12, 2008.

Section 3. Modifications of Terminal Area Definition/Operator Duty to Vacate.

A. Modifications of Terminal Area Definition. As of the Effective Date of Amendment No. 1, the definition of "Terminal Area" set forth in the Agreement is hereby deleted and, in lieu thereof, shall be substituted the following new definition adding approximately 9.8 acres as of the Effective Date of Amendment No. 1, permanently deleting the Removed Parcel as of the Effective Date of Amendment No. 1, permanently deleting the Deleted Parcel as of the Deletion Date, and adding the Replacement Parcel as of the Replacement Parcel Date:

"Terminal Area" means the existing land designated in Exhibit "1" to Amendment No. 1 attached hereto and incorporated by reference herein, and includes existing buildings, structures, and fixtures thereon. Such area consists of approximately 80.62 acres of mostly paved cargo terminal space, part of which is adjacent to the berthing area between Port Bays 101 and 123, all as more particularly described and identified in Exhibit 1 to this Amendment No. 1, provided, however, that as of the Deletion Date the Deleted Parcel, shown in such Exhibit 1 as the 1.25 acre parcel shown in cross-hatch, shall be permanently deleted from the definition of Terminal Area as set forth in Sections 3(B) and 4 of this Amendment No. 1, and provided further that as of the Replacement Parcel Date the Replacement Parcel, shown in Exhibit 1 as the 1.63 acre parcel shown in diagonal-hatch, shall be deemed added to this definition of Terminal Area. The

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Terminal Area is subject to adjustment by the County pursuant to Section 5(f) of the Agreement or as otherwise provided in the Agreement as amended."

B. Deletion of Deleted Parcel/Operator Duty to Vacate. As of and following the Deletion Date, the definition of Terminal Area amended by Section 3(A) above is further amended to permanently delete the Deleted Parcel therefrom. Notwithstanding and prevailing over any other term or implication set forth in the Agreement or this Amendment No. 1, prior to the Deletion Date, Operator shall at its cost fully and permanently surrender and vacate the Deleted Parcel to the County and shall leave said Deleted Parcel in a clean and rubbish free condition, free of all containers, other cargo, chassis, trailers, racks, vehicles, supplies, spare parts, and other equipment, and in compliance with all Applicable Laws. As of and following the Deletion Date, Operator shall have no right to or interest in the Deleted Parcel or the Existing Road (as defined in Section 7 below) under the Terminal Agreement, this Amendment, or otherwise.

Section 4. Modification of Definition of Discount TEU Rate. As of the Effective Date of Amendment No. 1, the definition of "Discount TEU Rate" set forth in the Terminal Agreement shall be deleted in its entirety and, in lieu thereof, shall be substituted the following amended definition (deleting the prior exclusion for Non-Operator TEUs):

"Discount TEU Rate" means the discount rates that are paid by the OPERATOR starting with the first TEU in each Fiscal Year (excluding Transshipped TEUs) that exceeds the number of Minimum Guaranteed Throughput per Fiscal Year as identified in Exhibit "A" hereto.

Section 5. Modification of Section 6B) (Discount TEU Rate). As of the Effective Date of Amendment No. 1, Section 6B) of the Terminal Agreement is hereby deleted in its entirety and, in lieu thereof, shall be substituted the following new Section 6B):

6B) Discount TEU Rate: As of the Effective Date of Amendment No. 1, OPERATOR shall be eligible to receive Discount TEU Rates as set forth

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in columns 4 -7 of Exhibit "A" to the extent certain annual TEU volume throughput incentive levels are achieved by OPERATOR, excluding (i) Transshipped TEUs and (ii) Non-TEU Cargo, neither of which shall be eligible for any discount TEU rates under Exhibit A hereto or otherwise. The number of Non-Operator TEUs loaded or unloaded from a Vessel calling the Port to or from the Terminal Area in a given Fiscal Year shall count for purposes of calculating OPERATOR's eligibility for potential Discount TEU Rates (and for determining the relevant potential discount) applicable to OPERATOR Affiliated TEUs.

Section 6. Modifications of Exhibit B to Agreement. As of and following the Effective Date of this Amendment No. 1, Exhibit B to the Agreement is hereby deleted and, in lieu thereof, shall be substituted Exhibit 1 to this Amendment No. 1.

Section 7. Agreement to Relocate Terminal Area Access Road and Canopies.

A) Operator hereby agrees that Miami-Dade County may in its discretion relocate and take out of service that portion of the current County access road serving, among other things, Operator's Terminal Area entrance identified as the "Existing Road" in attached Exhibit 2 hereto, and replace such Existing Road, at the County's expense, with a different access road to be located predominantly South of the Existing Road and generally within the footprint area more specifically identified as "Alternate Road" on attached Exhibit 2 hereto. The County shall promptly inform Operator of all material dates and milestones material to the planned replacement of the Existing Road with the Alternate Road and shall in connection therewith work in good faith with Operator to minimize any disruption to Operator's operations.

B) As the foregoing planned removal of the Deleted Parcel, relocation of the Existing Road, and/or activation and use of the Alternate Road will or may require relocation of existing canopies and canopy-related infrastructure and equipment on the Deleted Parcel to another location within the Terminal Area, the County may and shall enter upon the Deleted Parcel and the Terminal Area with its own personnel and/or contractors, or contractors that the County may

authorize others to retain, to disassemble and move three (3) existing canopies located in the vicinity of Operator's current entrance and exit gates (collectively, the "Canopies"; each individually, a "Canopy") and relocate said Canopies to other locations within the Terminal Area, excluding the Deleted Parcel, as identified on Exhibit 2 hereof (or to other non-Deleted Parcel locations within the Terminal Area that may be mutually agreed upon by the County and Operator in writing) (as applicable, the "New Canopy Locations").

C) Limited Canopy and Canopy-Infrastructure Relocation Indemnity. Only in connection with the County's obligations under Sub-Sections 7(b), (d), and (e) of this Amendment No. 1, County shall indemnify, defend, and hold Operator and its employees harmless from and against any and all liability, losses, or damages, including attorney's fees and costs of defense, which Operator or its employees may incur as a result of claims, demand, suits, or causes of action that are brought by third parties (other than Operator's employees) and which result or arise from the negligent performance of County's obligations under Section 7(b), (d), or (e) hereof to relocate or replace (as the case may be) the Canopies and the Canopy-related infrastructure listed on Exhibit 3 hereof to the New Canopy Locations, subject to the following additional limitations and exclusions. The preceding limited obligation to indemnify, hold harmless, and defend shall only apply to the limited extent the third party claims, damages, or losses for which indemnity, hold harmless, and/or defense are sought (i) are for or arise from property damage or personal injuries occurring during and in connection with the County's relocation or replacement (as the case may be) of the Canopies and the Canopy-related infrastructure listed on Exhibit 3 to the New Canopy Locations, and which occur only at the locations within the Terminal Area where such Canopy and Canopy-related infrastructure relocation or replacement work and work-associated activities take place, and (ii) are caused by the negligent acts or omissions of County

contractors, County employees, or County agents authorized by County to enter such portions of the Terminal Area in connection with such Canopy and Canopy-related infrastructure relocations or replacements. Notwithstanding and prevailing over the foregoing, and for avoidance of doubt, this Subsection's limited County obligation to indemnify, hold harmless and defend shall expressly exclude any and all claims, losses, damages, injuries, demands, and liabilities (x) that arise or occur in whole or in part either before the County Canopy and Canopy-related infrastructure relocation and/or replacement work required under Section 7 hereof commences or after the date by which such work is completed, or (y) to the extent caused or contributed to by any negligent act(s) or omission(s) of Operator, or any of its employees, agents, operators, or contractors (of any tier).

D) In connection with the County's rights and obligations under Sub-sections 7A and 7B above, the County may and shall enter the Terminal Area to either relocate or replace, at the County's discretion, the existing Canopy-related infrastructure and equipment listed in Exhibit 3 as requiring relocation to or replacement at the New Canopy Locations.

E) The County shall at its cost also cause electrical power to be made accessible at each of the three New Canopy Locations, provided, however, Operator shall be solely responsible to pay for all costs of utility services provided to the Terminal Area, the Replacement Parcel, and/or the New Canopy Locations, including, without limitation, all costs of electric, water, sewer, and telecommunication services and any other utility services provided to or requested or consumed by Operator or its customers.

F) Other than the County's foregoing Section 7 obligations to (i) replace the Existing Road with the Alternate Road, (ii) provide access to electric power at the New Canopy Locations, and (iii) relocate the Canopies and the existing Canopy-related infrastructure and equipment listed in

Exhibit 3, and (iv) indemnify, defend, and hold the Operator harmless under certain limited conditions set forth in Section 7(C) above, the County shall have no further obligation or liability to Operator hereunder, under the Agreement, or otherwise for any costs or impacts that Operator may incur or claim as a result of or relating to the removal of the Deleted Parcel, the relocation of the Existing Road, Canopies, and/or Canopy-related infrastructure and equipment, and/or activation and use of the Alternate Road, provided, however, the foregoing limitation shall not be construed as precluding Operator from asserting potential future tort claims against non-Party contractors.

Section 8. Delegation of Limited Sublease Approval Authority to Port Director. The Port Director is hereby delegated the authority to approve in writing future subleases of portions of the Terminal Area by Operator to other on-Port terminal operators or tenants, and subleases of portions of other Port property by Operator, provided, however, such subleases (i) do not exceed two years in duration, unless the Port Director determines that a longer period is required to accommodate the demolition and removal of existing Port Shed E, and, in such event, then only long enough to accommodate such demolition and removal, (ii) do not involve more than five acres of Port land per sublease nor more than ten acres, in aggregate, and (iii) are deemed necessary by the Port Director (in writing) to accommodate the construction and/or operating requirements of proposed new cruise terminal A.

Section 9. Temporary Subleased Area Rental Credit. In the event Operator subleases a portion of the Terminal Area to POMTOC via a future written sublease approved in writing by the Port Director in accordance with the terms and conditions set forth in Section 8 of Amendment No. 1 above, Operator shall be entitled to a temporary pro rata ground rent credit, not to exceed the duration of said sublease or eighteen (18) months, whichever is shorter, based



on the number of square feet of the Terminal Area subleased to POMTOC via said Port Director approved sublease, provided, in no event may the size of said temporary ground rent credit ever exceed five acres, in aggregate. Notwithstanding the foregoing, any portions of the Terminal Area subleased to POMTOC or any other Port tenant via a sublease approved in writing by the Port Director pursuant to terms and conditions set forth in Section 8 above shall at all times remain within the definition of Terminal Area for all purposes of the Terminal Agreement as amended.

Section 10. Other than the Agreement Terms and Exhibits expressly modified or altered herein, all other terms of the Parties' Agreement shall remain in full force and effect.

Section 11. Notwithstanding the deletion of the Deleted Parcel from the Terminal Area as of the Deletion Date, all obligations and provisions listed in Section 25 of the Terminal Agreement or otherwise as surviving the expiration or early termination of the Terminal Agreement shall also survive and continue to apply to the Deleted Parcel from (and including) the Deletion Date through and until the expiration of a five (5) year period commencing on the later of (i) the Deletion Date or (ii) the date by which Operator fully vacates and returns the Deleted Parcel to the County in accordance with all requirements hereunder.

Section 12. This Amendment No. 1 shall be governed by and construed in accordance with Florida law, and exclusive venue for any action or proceeding to enforce or construe any term hereof shall lie exclusively in Miami-Dade County, Florida.

Section 13. Effective Date of Amendment No. 1. This Amendment No. 1 to the Agreement shall become effective upon the last of the following to occur: (i) this Amendment No. 1 being executed by Operator; (ii) this Amendment No. 1 being approved by the Miami-Dade County Board of County Commissioners via a duly adopted and effective resolution of the

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Board; and (iii) this Amendment No. 1 being executed by the mayor of Miami-Dade County or such mayor's authorized designee ("Amendment No. 1 Effective Date").

Handwritten initials, possibly 'M' and 'fe', located in the bottom right corner of the page.

IN WITNESS HEREOF, the County and Operator have caused this Amendment No. 1 to the Agreement to be duly executed this _____ day of _____, 2016.

TERMINAL LINK (MIAMI) LLC

MIAMI-DADE COUNTY, FLORIDA,
a political subdivision of the State of Florida

By: [Signature]
Name: IAN CAIRNS
Title: CEO TERMINAL LINK USA

By: _____
County Mayor or Designee
Date: _____

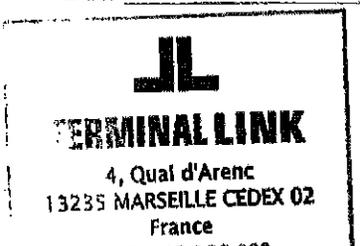
(CORPORATE SEAL)

ATTEST:

By: [Signature]
Name: TERMINAL LINK
Title: N/A
Date: _____

ATTEST:

HARVEY RUVIN, CLERK
By: _____
Deputy Clerk
Date: _____



Terminal Link (Société Par Actions Simplifié Unipersonnelle) as GUARANTOR of Terminal Link (Miami) LLC's Payment and Performance Obligations under this Agreement per Section 42 of the Terminal Agreement.

Name: Terminal Link
By: [Signature]
(Print) L. TARTENS
Title: Vice president
Date: 02/16/2016

ATTEST:

By: _____
Name: C. GARNER
Title: CHIEF OPERATING OFFICER

CORPORATE SEAL:



[Handwritten mark]

UNANIMOUS CONSENT OF THE BOARD OF DIRECTORS
OF TERMINAL LINK (MIAMI) LLC

The undersigned, being The Board of Directors of Terminal Link (Miami) LLC (the "Company"), hereby adopt the following Resolution in accordance with Article 4.2 of the Operating Agreement of the Company:

WHEREAS, the Board of Directors have decided by unanimous consent that it is in the best interest of the Company to enter into Amendment 1 to the Company's current Terminal Agreement with Miami-Dade County (the "Terminal Agreement");

IT IS THEREFORE RESOLVED, effective as of the 6th day of May, 2016, that the Board of Directors will execute Amendment 1 to the Terminal Agreement.

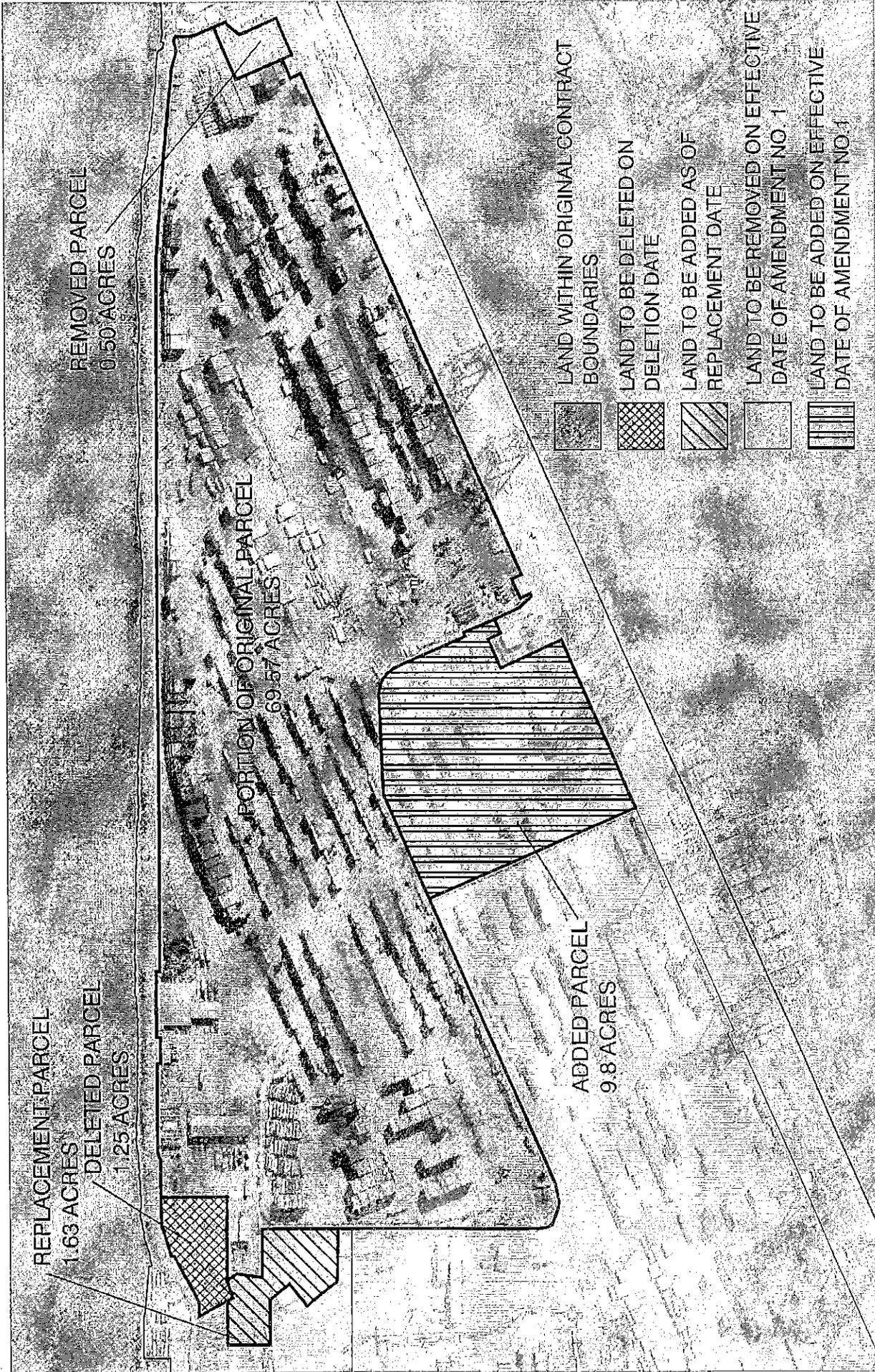
Executed on the 20 day of May, 2016.

By: *L. Martens*
Name: Laurent Martens
Title: Director



By: *I. Cairns*
Name: Ian Cairns
Title: Director

By: *J. Zerba*
Name: Jared Zerba
Title: Director



* Above numbers are approximations
 * Exact acreage subject to future legal survey of areas

PORTMIAMI

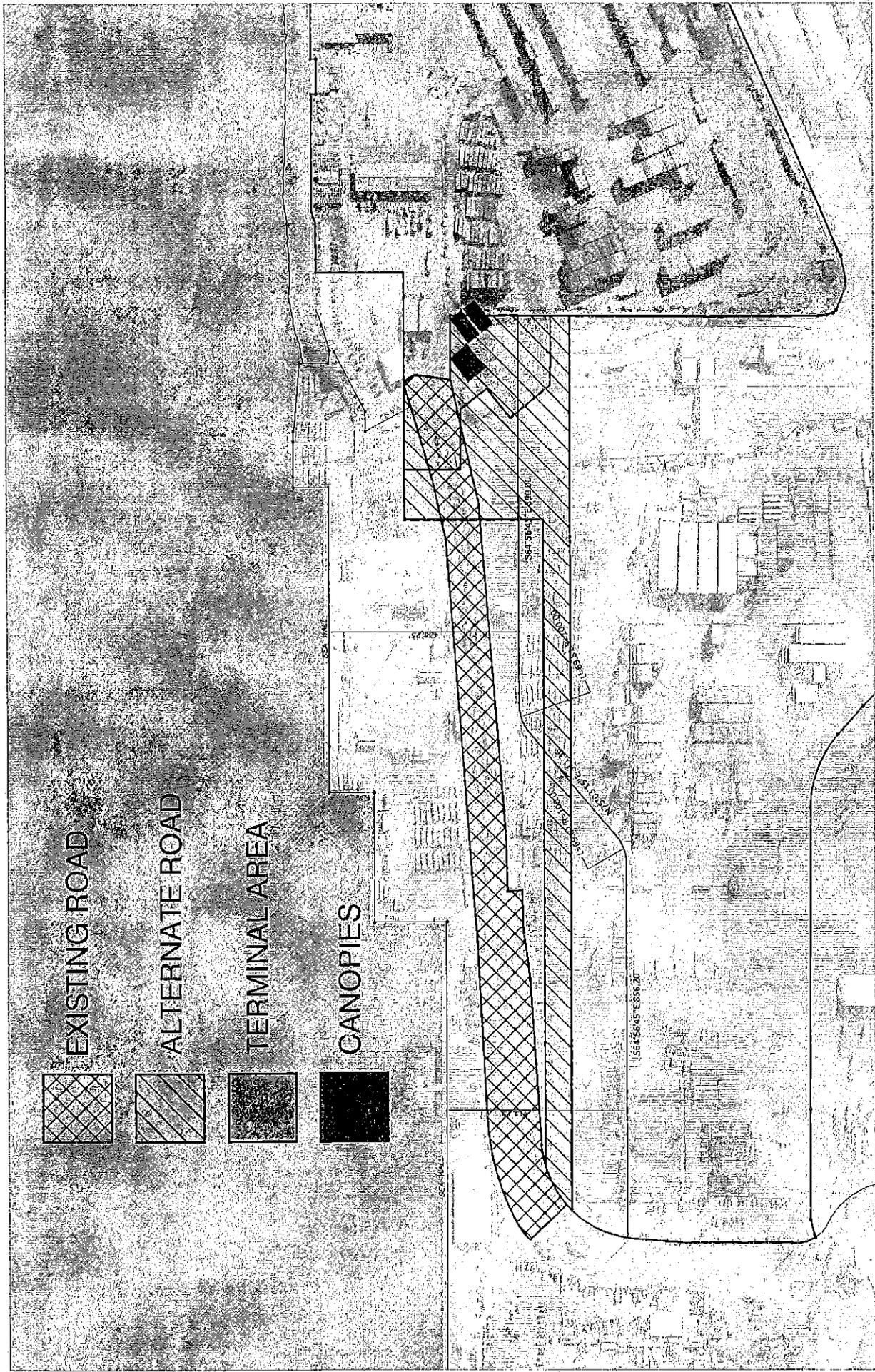
1015 North America Way
 Miami, Florida 33132

Project: _____
 Drawing: _____

EXHIBIT 1 TO AMENDMENT NO. 1

Date: 04/05/16
 Drawn by: _____
 Scale: N.T.S.
 Page: _____





* Above numbers are approximations
 * Exact acreage subject to future legal survey of areas

PORT/M/AMM

1015 North America Way
 Miami, Florida 33132

Project:

EXHIBIT 2 TO AMENDMENT NO. 1

Drawing:

ROADWAY RIGHT OF WAY DIAGRAM

Date: 04/01/16

Drawn by:

Scale: N.T.S.

Page:



EXHIBIT 3 TO AMENDMENT NO. 1

To the extent Canopy-related and existing at current Canopy locations, the following are items of Canopy-related infrastructure and equipment that, at the County's election, shall be either relocated to or replaced at the New Canopy Locations by the County:

- the 3 Canopies and their respective affixed Canopy lights
- Placement of IT conduit to vicinity of New Canopy Locations
- existing Canopy security cameras to New Canopy locations
- two security booths and one POV booth
- one POV gate
- install new safety bollards at relocated booths