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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: June 15, 2010

To: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

Agenda Item No. 14(A)(29)

From: George M. Burgess, County Manager

Resolution No. R-697-10

Subject: Resolution Authorizing Execution of Amendment No. 1 to Cruise Terminal Agreement between Miami-Dade County and Carnival Corporation

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This item was amended at the June 10, 2010, Airport and Seaport Committee meeting to delete the following sentence from page 2 of the memorandum: "Section 5(iii) requires the County to provide written notification to Carnival six (6) months in advance of its intent to implement such fee." This amended item reflects such deletion.

RECOMMENDATION

It is recommended that the Board approve the accompanying resolution authorizing the execution of Amendment No. 1 to the Cruise Terminal Agreement ("Agreement") between Miami-Dade County ("County") and Carnival Corporation ("Carnival").

SCOPE

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

FISCAL IMPACT/FUNDING SOURCE

The Amendment will provide the Port a total minimum guaranteed revenue stream of more than $181 million throughout its eight (8) year term. Carnival shall pay the County Minimum Annual Guaranteed Payments ranging from $20.4 million in the first year to $25.1 million in the eighth and final year, as per the attached "Exhibit B".

The current Agreement between the County and Carnival has a fifteen (15) year term with one five (5) year renewal period at Carnival's sole option; exercisable in 2013. This Amendment No. 1 executes the negotiated option period and extends the term of the Agreement five (5) years through 2018. This additional five (5) year option period will generate approximately $118.4 million in guaranteed revenues from Fiscal Years 2014 through 2018.

Total Carnival revenues to the County throughout the last 5 years have exceeded $82 million.

TRACK RECORD/MONITOR

The Seaport Department staff members responsible for monitoring the Amendment and Agreement are Juan Kuryla, Deputy Port Director, Kevin Lynskey, Assistant Port Director, Business Initiatives, and Hydi Webb, Business Development Manager.

BACKGROUND

The Port of Miami and Carnival have shared a long and prosperous business relationship over the last 38 years. Carnival began modern-day cruising from Miami in 1972 and has since remained the Port's largest cruise customer. Today, Carnival Corporation is the worldwide leader in the cruise

industry, operating a fleet of 95 vessels with another 12 vessels on scheduled for delivery by spring 2014.

Carnival has a total of eleven (11) cruise brands of which Carnival Cruise Lines is the largest. Carnival is the Port of Miami's top cruise partner in terms of passenger volume, handling an average of 1.8 million passengers in the last five (5) years, generating over $82 million in Port revenues.

On October 20, 1998, the Board approved Resolution R-1196-98, which authorized the execution of the Agreement with Carnival for the purpose of conducting cruise vessel berthing operations at the Port. The Agreement has a fifteen (15) year term with a five (5) year renewal period at Carnival's option, exercisable in 2013. The Agreement has been profitable for both parties as it has provided the Port with significant guaranteed passenger volumes and revenues throughout the years; and Carnival with discounted dockage and passenger wharfage rates for its passengers.

Responding to the competitive business environment and anticipated deployment schedules, the proposed Amendment No. 1 to the Agreement is respectfully recommended for approval. Under the terms of the Amendment, Carnival commits to exercise its five (5) year renewal option and provide guaranteed revenues to the County of $181,425,000 through the remainder of the Agreement (including the option period) (Fiscal Years 2011 through 2018). The Amendment also provides for the following:

- Commencing with Fiscal Year 2011, Carnival vessels shall berth at the Port during each fiscal year a sufficient number of times to generate the Minimum Annual Guaranteed Payments as set forth in the attached "Exhibit B", which shall replace "Exhibit A" in the Agreement.
- The Minimum Annual Guaranteed Payments are based on combining four existing Port of Miami Terminal Tariff No. 010 charges (dockage, passenger wharfage, harbor fee and water consumption) into a per passenger "Unitary Fee" as set forth in the attached "Exhibit A".
- The Unitary Fee shall be $13.60 per embarking and $13.60 per disembarking passenger during Fiscal Year 2010-11. This Unitary Fee includes a twenty-five cent ($ .25) net revenue increase per passenger charge over the current fiscal year.
- The water component of the Unitary Fee shall be capped at $1,150,000 for Fiscal Year 2011 ("Water Usage Cap") and increase by three percent (3%) each fiscal year. Should Carnival's costs for water usage exceed the Water Usage Cap during any fiscal year, Carnival shall pay the County the prevailing rate for the excess water used.
- The County may increase the Unitary Fee by no more than three percent (3%) each fiscal year.
- The County may impose a new fee, including a security charge, on Carnival if required to be imposed or assessed by a federal, state or local governmental authority, except Miami-Dade County, provided the requirements of Section 5 (III) of the Amendment are met. If such a new fee is implemented, it would not be included in the existing three percent (3%) cap for limitations to annual increases. Should the new fee (which would increase the then current Unitary Fee payable by Carnival to the Port) equal or exceed five million dollars ($5,000,000) in any fiscal year, Carnival shall have the right to terminate the Agreement by giving the County twelve (12) months prior written notice.
- Should the County itself impose any new fee for a Port specific charge, the County must provide six (6) months notice to Carnival. Such Port specific charge shall be added to the

Unitary fee, however the Unitary fee may not be increased by more than 3 percent (3%) per year.

- Should the County impose a new Port specific charge and Carnival agrees to pay it outside of the Unitary fee cap, then the six (6) month notice provision will not apply.
- Carnival shall pay no less than its Minimal Annual Guaranteed Payment in any one year. If during any fiscal year the Unitary Fee incurred by Carnival fails to equal the Minimum Annual Guaranteed Payment, Carnival shall pay the difference to the County within sixty (60) days of notice by the County. However, a Shortfall Payment Credit Mechanism will exist as follows:
    - Surplus amounts shall accrue each fiscal year when Carnival exceeds the Minimum Annual Guaranteed Payment for that year, not to exceed three million dollars ($3,000,000) in the first four (4) year period (Fiscal Years 2011 through 2014) or six million dollars ($6,000,000) in the second four (4) year period (Fiscal Years 2015 through 2018).
    - Carnival shall be limited to a maximum of three million dollars ($3,000,000) in Surplus credit use in any given fiscal year during the first four (4) year period and six million dollars ($6,000,000) during the second four (4) year period should Carnival fail to meet the Minimum Annual Guaranteed Payment.
    - At the end of the term, the County shall be entitled to retain any surplus amounts.
- The Amendment provides that the underlying Agreement remains in effect except as revised by the Amendment. The underlying Agreement includes a force majeure provision that could affect Carnival's commitments under the Amendment as set forth above. The force majeure provision in the Agreement is consistent with those contained in other Port contracts. Nonetheless, the force majeure provision releases Carnival from its commitments under the Amendment and the Agreement should any force majeure events occur, which is defined as any event beyond the reasonable control of Carnival or its agents, employees, contractors, subcontractors or guests. Likewise, the force majeure provision also affords the County similar relief from its obligations.

In exchange for the above pledges, Carnival will be eligible for the following incentives:

- Office Space - Carnival shall be entitled to the exclusive use of certain office space in Cruise Terminals D, E, and 10, free of charge for the purpose of processing passenger embarkations and debarkations. The office space in Cruise Terminals D, E, and 10, to which Carnival currently holds a lease agreement with the County, and to which it shall have complimentary use of, consists of a maximum of 1,800 square feet as per the attached "Exhibit C".
- Warehouse Space – Carnival shall be entitled to the exclusive use of warehouse space, in Cruise Terminal 10, free of charge for the purpose of provisioning vessels. The warehouse space in Cruise Terminal 10, to which Carnival currently holds a lease agreement with the County, and to which it shall have complimentary use of, consists of a maximum 2,000 square feet as per the attached "Exhibit D".
- Marketing Incentive – the County shall pay Carnival a marketing incentive to be dedicated towards the promotion of cruises from Miami based on the parking revenues collected by the County for vehicles parked at the Port. This incentive shall be determined by Carnival's total embarkations to the Port's overall passenger embarkations. Port of Call passengers will not be included in the calculations. For example, if Carnival embarkations are fifty percent (50%) of the Port's overall embarkations, then Carnival shall receive fifty percent (50%) of the Port's parking revenues. These revenues will be calculated and

remitted within sixty (60) days of the close of each fiscal quarter; with the first fiscal quarter close after the Effective Date of the First Amendment being December 31, 2010. For Fiscal Year 2010-11, the Port has budgeted $10,400,000 in total parking revenues based on an overall 3,954,000 anticipated cruise passenger movements at an overnight parking rate of $20. The County can adjust annual parking rates for Carnival passengers without written approval by Carnival provided that such cumulative adjustments are less than fifteen percent (15%) on a one-time basis or in the aggregate during either of the four (4) year periods (2011 through 2014 and 2015 through 2018).

This Amendment No. 1 includes new and revised definitions / references as follows:

- "Parking Revenues" means vehicles parking revenues collected by the Port from cruise passengers.
- "Net Port Fees" means each component of the annually established Passenger Unitary Fee, except for fresh water.
- "Unitary Fee" means a single fee assessed for each passenger embarkation and debarkation that may be used in place of fees that are separately charged at the Port. A Unitary Fee may include Tariff items and various other fees and charges at the Port of Miami.
- References throughout the Agreement to Terminals 8 and 9 shall be revised to refer to Terminals D and E.

The effective date of this Agreement shall be October 1, 2010 to coincide with the start of the County's 2010-11 Fiscal Year. The Agreement will expire September 30, 2018, and the renewal term shall be considered to have been exercised.

Carnival is headquartered in Miami-Dade County and currently employs 3,800 shoreside employees. It is estimated that Carnival has a total economic impact of more than $1 billion annually in this community. These impressive contributions to the cruise industry and sizable economic impact make Carnival a leading business partner.

DELEGATED AUTHORITY

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the resolution which include the authority for the Mayor or designee to execute the Amendment.

Assistant County Manager

EXHIBIT A

Amendment No. 1 to the Cruise Terminal Agreement Between Miami-Dade County and Carnival Corporation

Fiscal Year	Unitary Fee
2011	$13.60
2012	$14.01
2013	$14.43
2014	$14.86
2015	$15.31
2016	$15.77
2017	$16.24
2018	$16.73

Fiscal Year – October 1 through September 30
2011 Fiscal Year – October 1, 2010 through September 30, 2011

Unitary Fee - Fee assessed for each passenger embarkation and debarkation

5

EXHIBIT B

Amendment No. 1 to the Cruise Terminal Agreement Between Miami-Dade County and Carnival Corporation

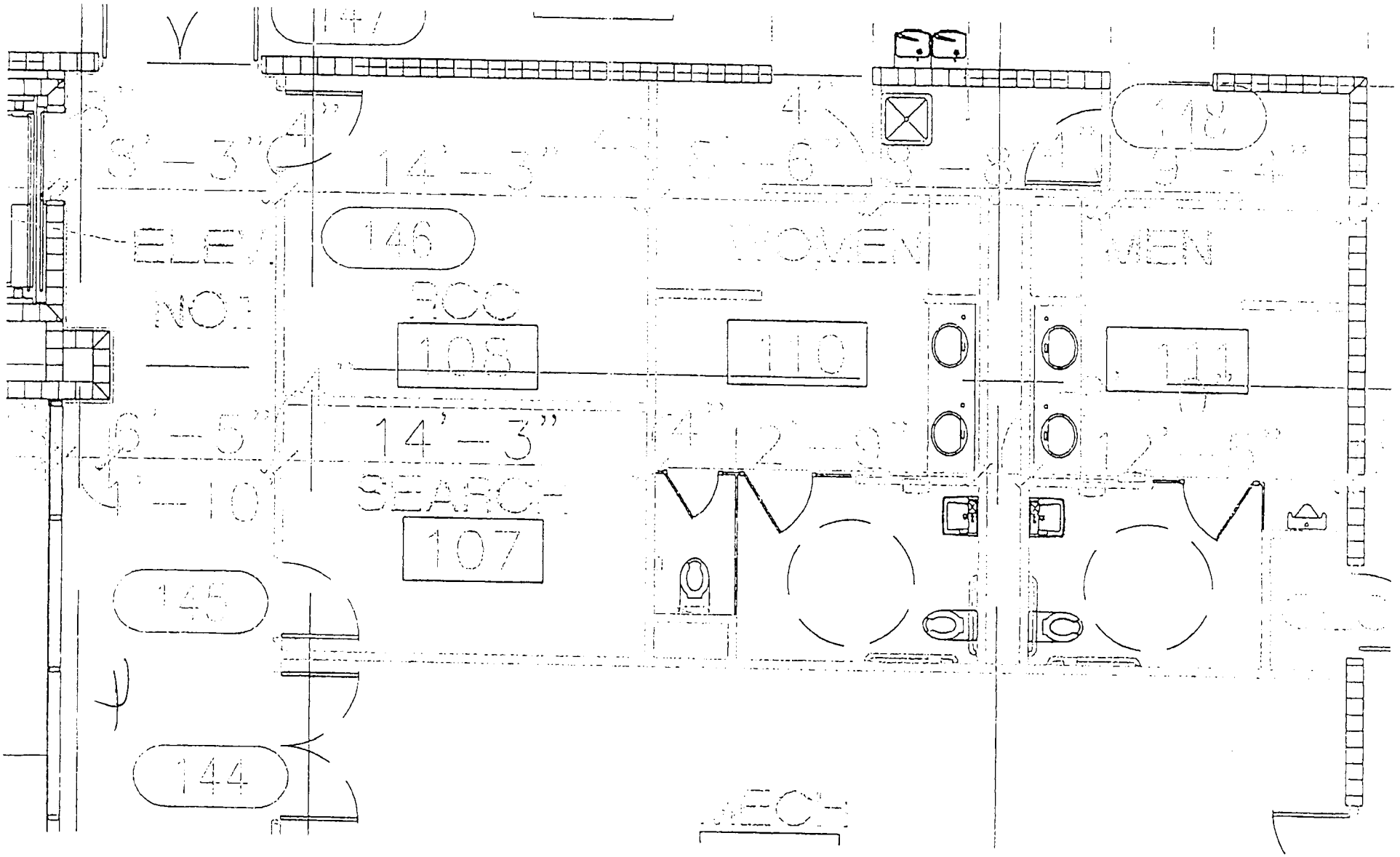
Fiscal Year	Minimum Annual Guaranteed Payment
2011	$20,400,000
2012	$21,015,000
2013	$21,645,000
2014	$22,290,000
2015	$22,965,000
2016	$23,655,000
2017	$24,360,000
2018	$25,095,000
Total	$181,425,000

Fiscal Year – October 1 through September 30
2011 Fiscal Year – October 1, 2010 through September 30, 2011

6

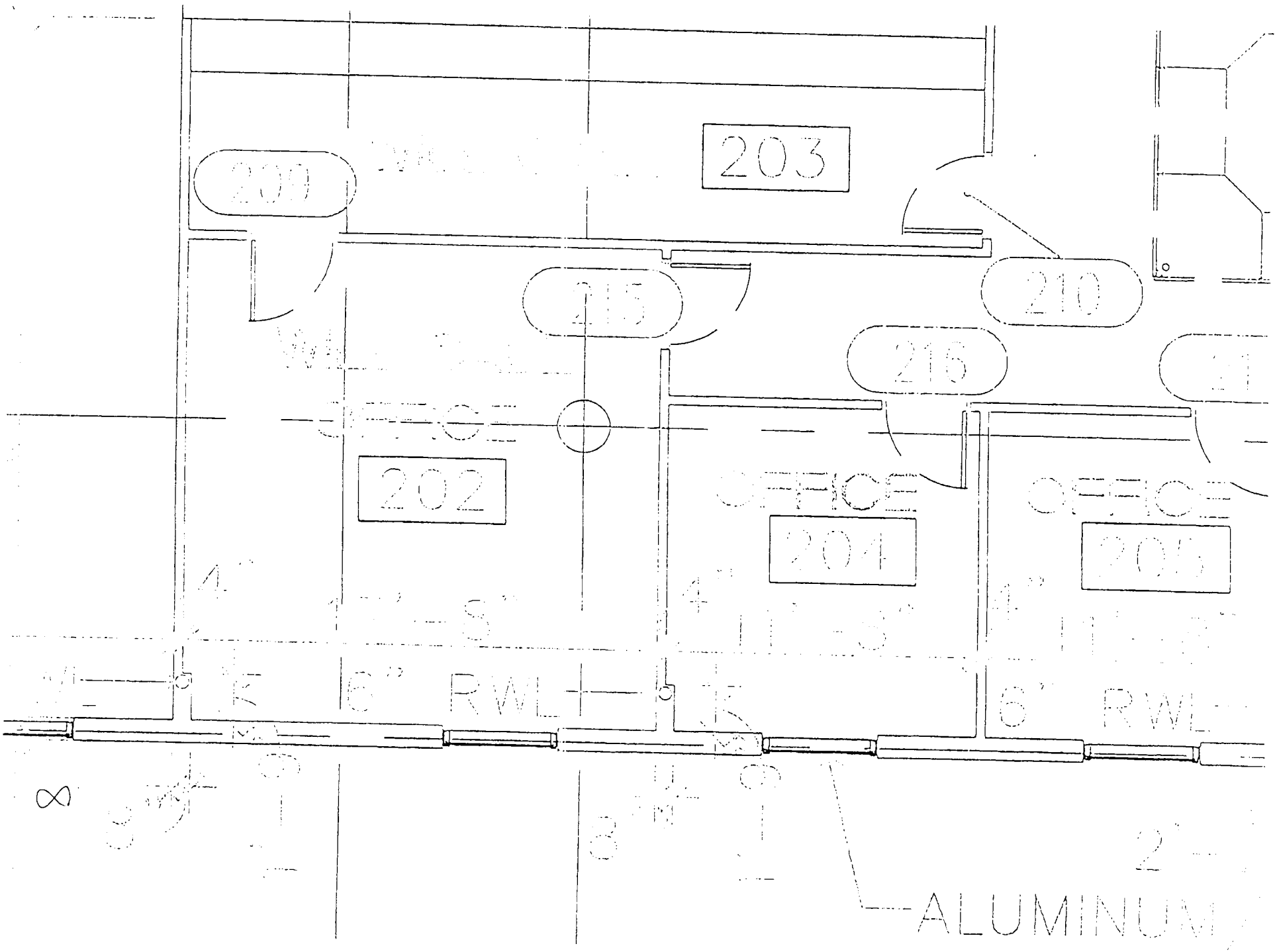
EXHIBIT C (P. 1 of 6)

TERMINALS D & E



Office Space

1,646 (824 in TERM D & E)
TOTAL Square Footage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200
215
210
216
OFFICE
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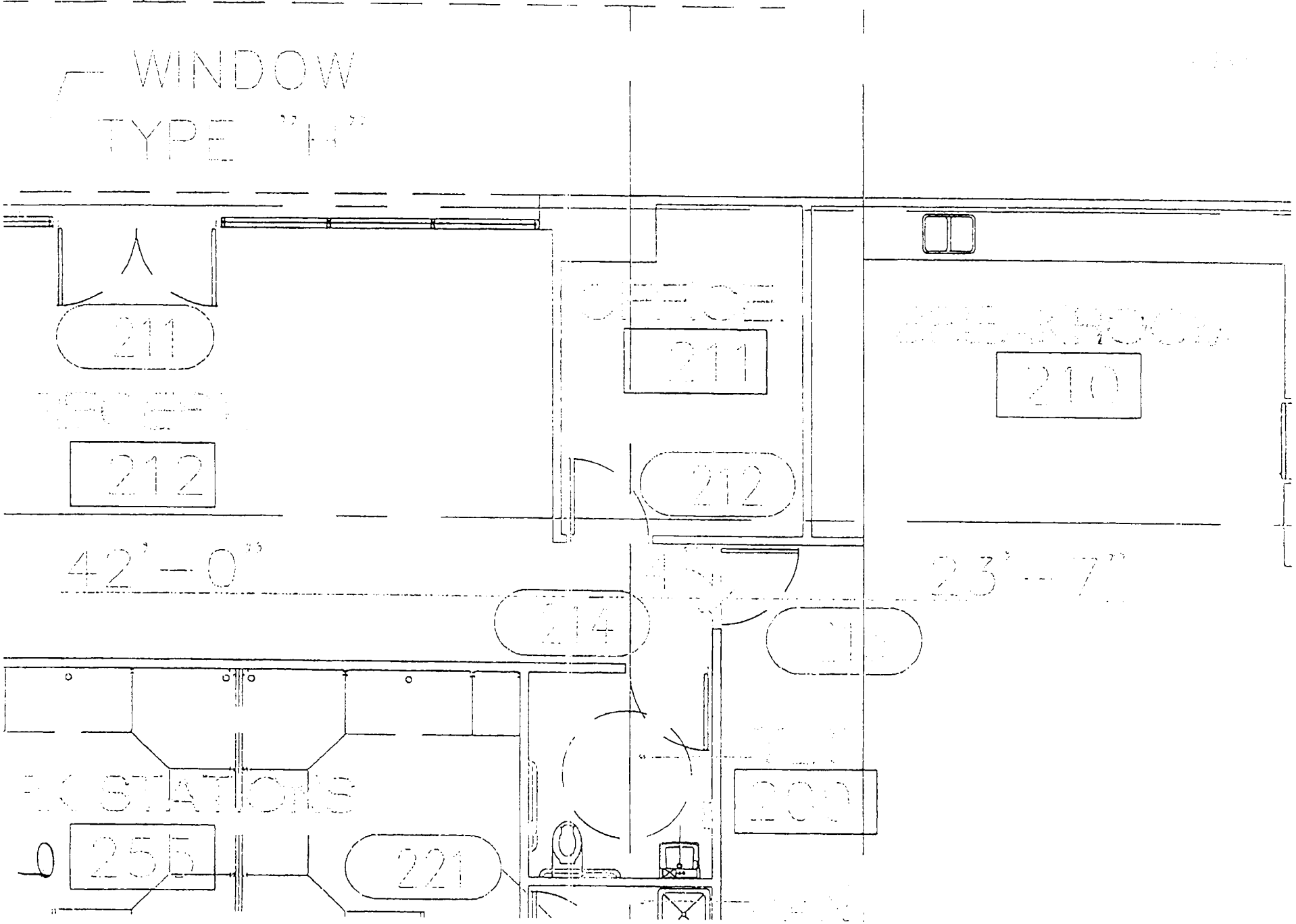
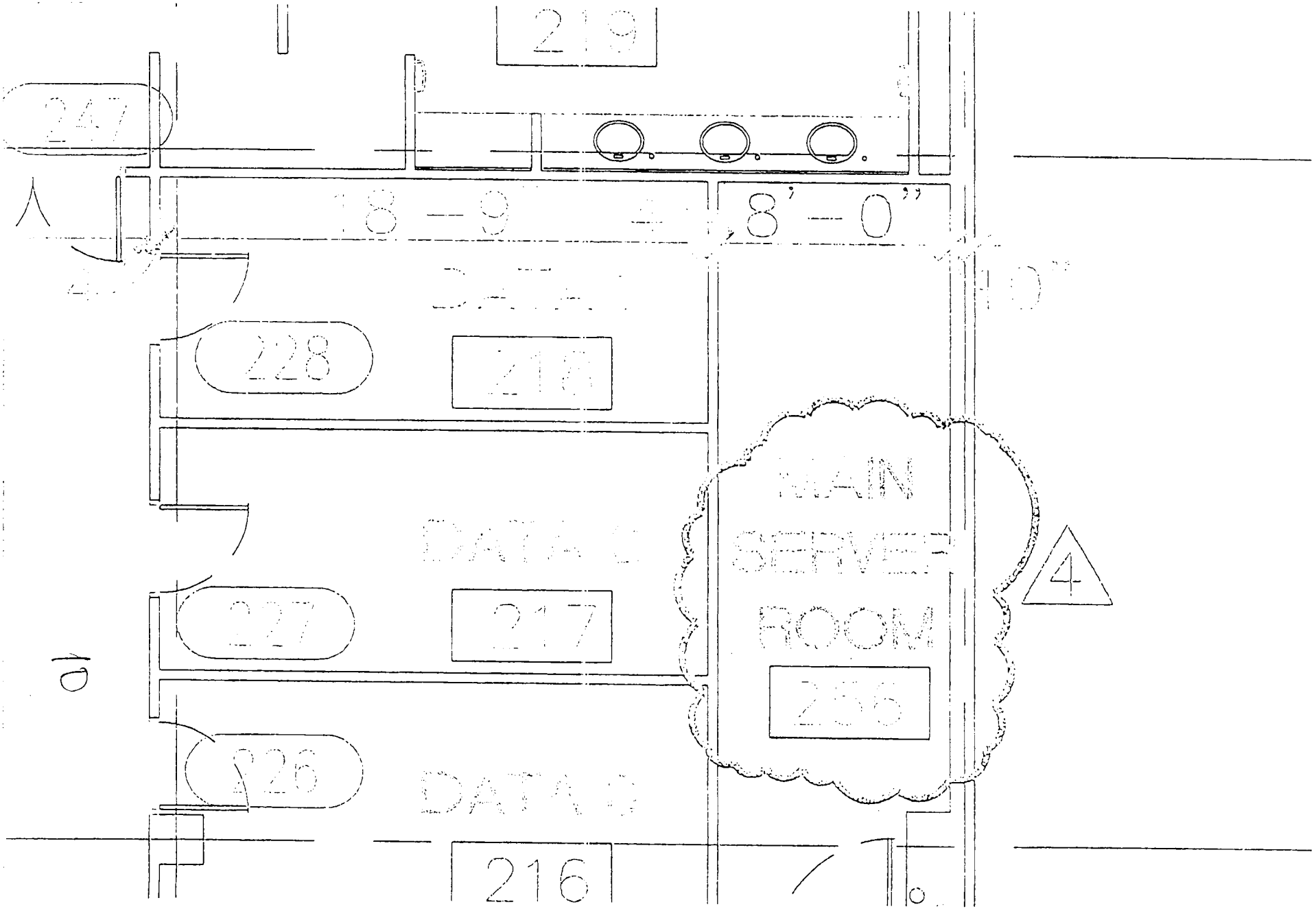
204
OFFICE
205
4"
11'-3"
6" RWL
ALUMINUM



TERMINALS D & E)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247
18'-9"
8'-0"
228
218
DATA 2
227
217
MAIN
SERVER
ROOM
256
4
226
DATA 3
216

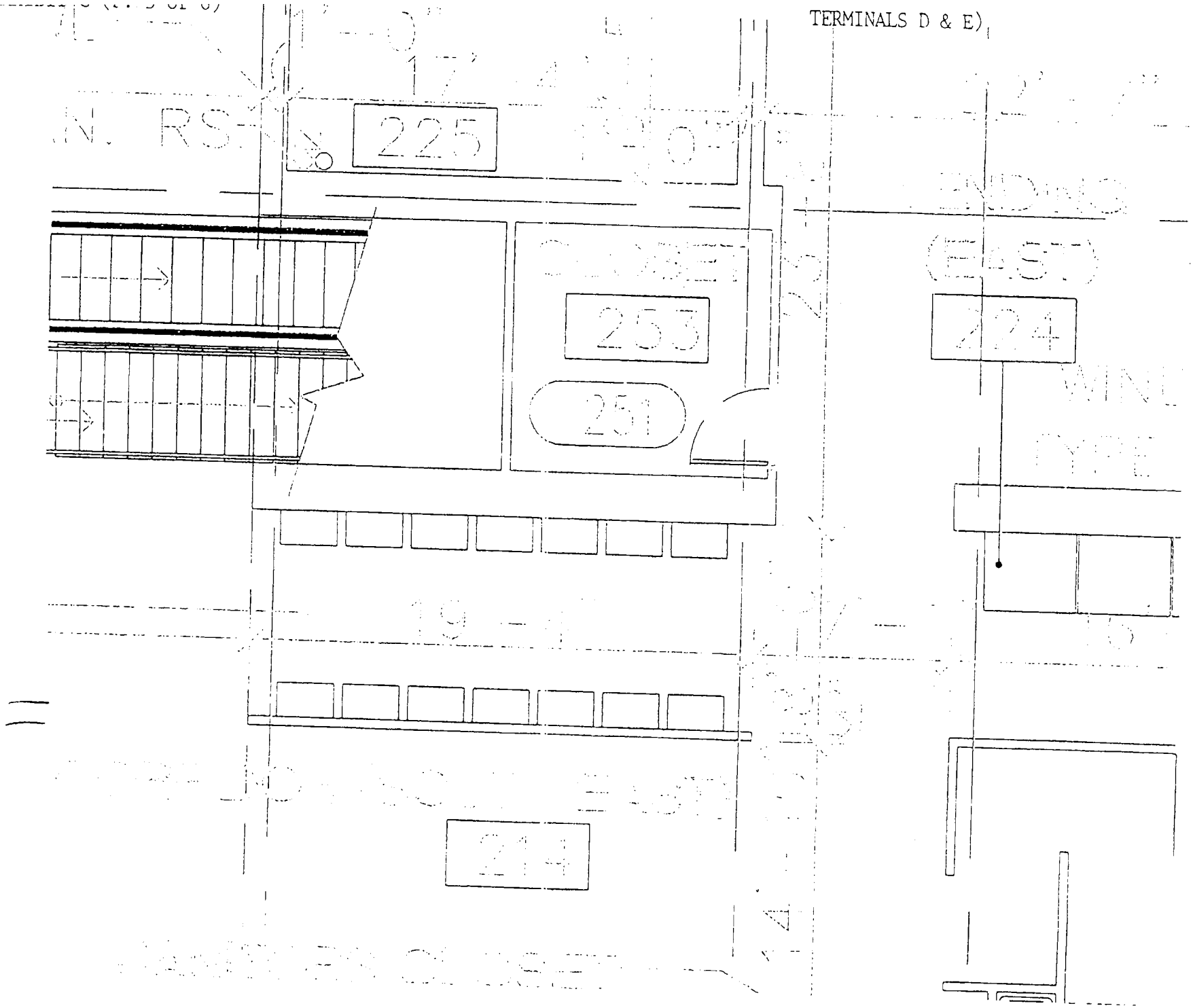
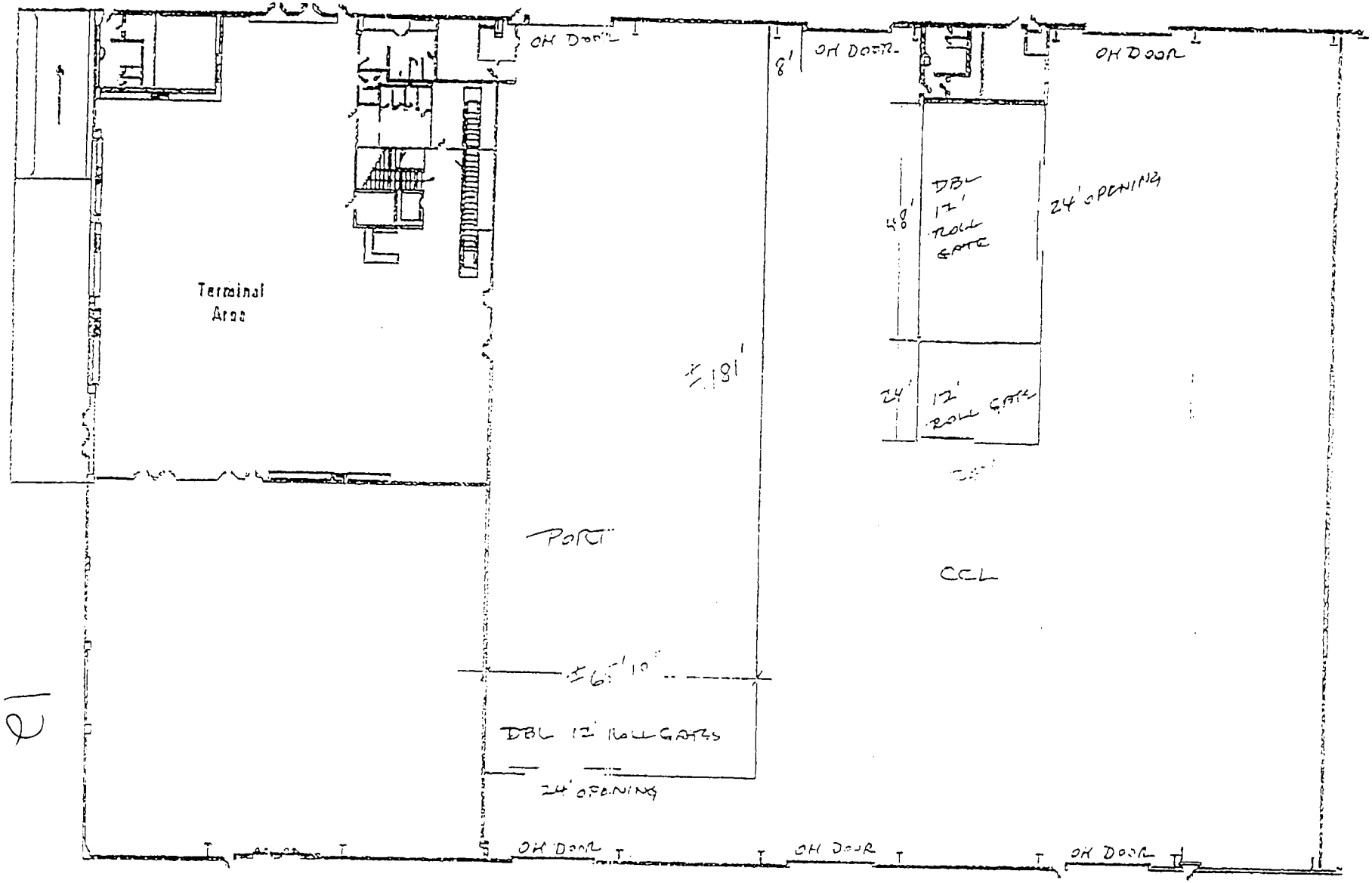

TERMINALS D & E)
225
253
251
224
214

EXHIBIT C (P.6 of6')

Terminal 10

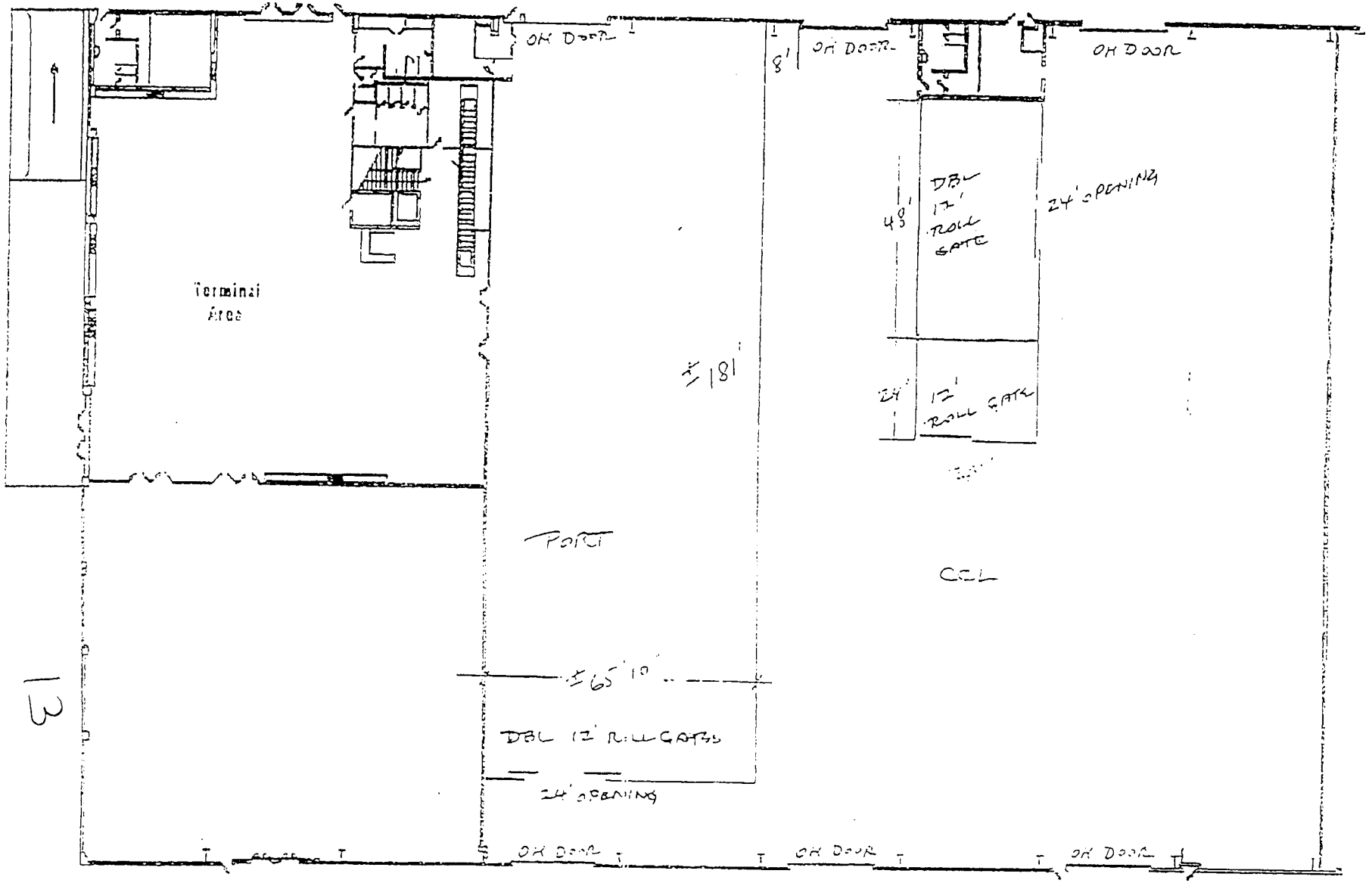


Office space

247 square feet

EXHIBIT B

Terminal 10



13

Warehouse Space

1,800 square feet

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: June 15, 2010

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 14(A)(29)

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

_____ Ordinance creating a new board requires detailed County Manager'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 _____

Agenda Item No. 14(A)(29)
6-15-10

RESOLUTION NO. R-697-10

RESOLUTION AUTHORIZING EXECUTION OF AMENDMENT NO. 1 TO THE CRUISE TERMINAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CARNIVAL CORPORATION; AND AUTHORIZING THE MAYOR OR DESIGNEE TO EXECUTE THE AMENDMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY

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 the execution of Amendment No. 1 to the Cruise Terminal Agreement between Miami-Dade County and Carnival Corporation in the form attached hereto and made a part hereof.

Section 2. Authorizes the Mayor or Designee to execute this Amendment after review and approval by the County Attorney's Office.

The foregoing resolution was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Jose "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 15th day of June, 2010. 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: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency.

Jess M. McCarty

Amendment No. 1 to the Cruise Terminal Agreement
Between Miami-Dade County and Carnival Corporation

THIS AMENDMENT ("First Amendment") is made and entered into this _____ day of _____, 2010, by and between Miami-Dade County, Florida, a political subdivision of the State of Florida, hereinafter referred to as the "County," which owns and operates the Dante B. Fascell Port of Miami-Dade, hereinafter referred to as the "Port," and Carnival Corporation, a Panamanian corporation, hereinafter referred to as "Carnival."

WHEREAS, Carnival is the largest cruise company in the world and operates a fleet of 95 vessels (with another twelve vessels scheduled for delivery by Spring 2014); and

WHEREAS, Carnival is the Port's largest cruise customer and has handled an average of 1.8 million passengers annually over the past five (5) years; and

WHEREAS, on October 20, 1998, the Miami-Dade Board of County Commissioners (the "Board") approved a Cruise Terminal Agreement between the County and Carnival ("the Agreement") by Resolution No. R-1196-98; and

WHEREAS, the Agreement has a 15-year term and Carnival has a right to exercise a renewal option of an additional five (5) years beginning in 2013 pursuant to Section 4 of the Agreement; and

WHEREAS, in lieu of exercising the renewal option and other consideration, the County and Carnival now desire to enter into this First Amendment to the Agreement in order to extend the term of the Agreement to 2018 and make other revisions as set forth below;

WHEREAS, Carnival has agreed to this First Amendment to the Agreement, and as part of this First Amendment has agreed to provide $181,425,000 in minimum annual guaranteed payments to the Port in Fiscal Years 2011 to 2018; and

WHEREAS, capitalized terms used herein but not defined shall have the meanings set forth in the Agreement

NOW, THEREFORE, and in consideration of the mutual covenants and agreements herein contained, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The effective date of this First Amendment shall be October 1, 2010 to coincide with the start of the County's 2010-11 Fiscal Year. The Agreement shall remain in force until such time under the current terms and conditions of the Agreement.

2. Section 2 of the Agreement is amended to include new definitions 2(r) and 2(x) and revised definition 2(q), with other subsections renumbered accordingly:

   (r) **"Parking Revenues"** means vehicle parking revenue collected by the Port from cruise passengers.

   (q) **"Net Port Fees"** means each component of the annually established passenger Unitary Fee, except for fresh water.

   (x) **"Unitary Fee"** means a single fee assessed for each passenger embarkation and debarkation that may be used in place of fees that are separately charged at the Port. A Unitary Fee may include Tariff items and various other fees and charges at the Port of Miami.

3. References throughout the Agreement to Terminals 8 and 9 are revised to refer to Terminals D and E.

4. Sections 3 (b)(i) and (ii) are hereby deleted in their entirety.

5. Sections 3(c)(i) – (vii) (inclusive) are deleted in their entirety and replaced with the following, with subsequent subsections renumbered accordingly:

   (i) The County has combined the passenger Wharfage Tariff, Dockage Tariff, Harbour Fees and water fees into a single per passenger "Unitary Fee" and Carnival hereby agrees to adhere to the County's Unitary Fee in lieu of payment for such charges under the Port Tariff; provided that the amount of the actual water use by Carnival included within the Unitary Fee shall be capped at $1,150,000 for Fiscal Year 2011 (the "Water Usage Cap"). Should the Seaport Department's costs for water usage by Carnival exceed the Water Usage Cap during any Fiscal Year, Carnival shall pay the County the then prevailing rate for the excess water used (the Seaport Department shall provide Carnival with written evidence of the then current water rates paid by the port). The Water Usage Cap shall be increased by three percent (3%) per Fiscal Year.

   (ii) The attached Exhibit A provides a "Unitary Fee" schedule for the remaining term of the Agreement. The Unitary Fee shall be $13.60 commencing on October 1, 2010. The County may increase the Unitary Fee by no more than three percent (3%) annually commencing on October 1, 2011. Other than the Unitary Fee, the Parties acknowledge and agree that there are no other fees, rates, or tariffs paid by Carnival to the County or the Seaport Department under the Agreement or the Port Tariff. The County shall not

increase the Unitary Fee payable by Carnival unless such increases are equally imposed on all other multiple night cruise operators at the Port. The County shall provide Carnival with no less than ninety (90) days prior written notice of any such proposed increase in the Unitary Fee.

(iii) If, after the date of this Amendment, a new levy, charge or fee is imposed or assessed under any applicable law, rule, regulation, directive or other legal requirement of any federal, state or local governmental authority including any new charge, fee or levy for increased security requirements but, excluding any levy, charge or fee imposed by County or the Seaport Department with respect to the Port specifically (hereinafter referred to as a "New Port Charge") against Carnival and all other multi-day passenger cruise lines berthed at or operating from Port, then the Unitary Fee shall be increased to include the New Port Charge as of its effective date. When the County is contemplating a new fee that may impact Carnival, the Seaport Department will provide Carnival written notice in advance of any public meeting of the Board of County Commissioners where such a fee will be considered.

(iv) In the event the imposition or assessment of a New Port Charge results in a "Material Adverse Change" on Carnival's operations from the Port, then representatives of the Seaport Department and Carnival shall meet to discuss the resulting financial impact on Carnival. If the parties are unable to reach an agreement reasonably satisfactory to Carnival within ninety (90) calendar days following written notice to Carnival of the imposition or assessment date of the New Port Charge, Carnival shall have the right to terminate this Agreement by giving twelve (12) months prior written notice to County, and Carnival may cease its operations at the Port on the termination date set forth in such notice. Such actions by Carnival shall not be deemed a default under the Agreement and the Parties shall thereafter be released and relieved from all further obligations thereunder. As used herein, the term "Material Adverse Change" shall mean a New Port Charge which would increase the then current Unitary Fee payments payable by Carnival by $5,000,000 or greater in any Fiscal Year if Carnival were to continue using the Port.

(v) Subject to the limitation on Unitary Fee increases set forth in sub-section (ii) above, the County shall provide no less than six (6) months written notice to Carnival prior to the effective date of any new levy, charge or fee imposed or assessed by County against all multi-day passenger cruise operators after the date of this Amendment which is specific to the Port or Port operations ("Port-Specific Charge").. Such Port Specific Charge shall be added as an additional component of the Unitary Fee. If any new Port-

Specific Charge would, when added to the existing Unitary Fee, cause the Unitary Fee to exceed the limitation on annual increases hereunder, the Unitary Fee shall not be increased above the annual limitation provided hereunder (i.e., 3.0%); it being the intention of the Parties that all such Port Specific Charges be subject to the 3.0% per annum cap on increases in the Unitary Fee. Accordingly, any such new Port Specific Charge shall apply to Carnival to the extent that such charge, when added to other increases (if any) in the Unitary Fee, does not increase the amount payable by Carnival by more than 3.0% over the prior Fiscal Year. When the County is contemplating a new fee that may impact Carnival, the Seaport Department will provide Carnival with written notice in advance of any public meeting of the Board of County Commissioners where such a fee will be considered.

(vi) Without limiting the foregoing, County shall provide all of the services covered by the Unitary Fee and any New Port Charge or Port Specific Charge in accordance with the terms, conditions and standards provided in the Tariff and consistent with the standards adhered to by the Seaport Department in the operations of the Port; provided that, with respect to the Port Specific Charge and related services, Carnival has agreed to pay for such charge notwithstanding the limitations on the cap and the notice requirements set forth in subsection (v) above.

6. Section 3(c)(viii) of the Agreement is amended so that the second sentence is deleted in its entirety and replaced with the following:

The foregoing sentence shall not apply in the case of incentives granted by the County to any cruise line that guarantees more revenue to the County in aggregate over an eight (8) year time span than is guaranteed by Carnival from Fiscal Year 2011 through Fiscal Year 2018

7. Section 3(d)(i) of the Agreement is deleted in its entirety and replaced with the following:

(i) Commencing with Fiscal Year 2011, Carnival Vessels shall berth at the Port during each Fiscal Year a sufficient number of times to generate the Minimum Annual Guaranteed Payment during each Fiscal Year that Amendment No. 1 remains in effect until contract expiration in 2018. The Minimum Annual Guaranteed Payment is set forth in Exhibit B, which replaces, in its entirety, Exhibit A from the Cruise Terminal Agreement.

8. Section 3(d)(ii) of the Agreement is amended to include a Shortfall Payment credit mechanism as follows:

Within sixty (60) calendar days following the end of each Fiscal Year, County shall calculate the actual Unitary Fees paid by Carnival for such Fiscal Year based on the passenger manifests submitted by Carnival, and shall send a written notice (the "Differential Notice") to Carnival setting forth the difference (positive or negative) between the actual fees paid and the Minimum Annual Guaranteed Payment for such Fiscal Year (the "Differential"). If the Differential for any Fiscal Year is a negative amount (a "Shortfall Amount") or a positive amount (a "Surplus"), the Differential Notice shall confirm the Shortfall Amount or Surplus to Carnival.

If the Differential Notice for the first Fiscal Year reflects a Shortfall Amount, Carnival shall pay to County, within sixty (60) calendar days of receipt of such notice, the Shortfall Amount. If a Differential Notice reflects a Shortfall Amount for any Fiscal Year following the first Fiscal Year, Carnival shall pay to County, within sixty (60) calendar days of receipt of such notice, the Shortfall Amount, subject to Carnival's right to credits from the Reconciliation Account (defined below) as hereinafter provided. If the Differential for any Fiscal Year (including the first Fiscal Year) is a Surplus, then no payment shall be due from Carnival for such Fiscal Year and County shall allocate the Surplus to an account (the "Reconciliation Account") held by County to be used solely for the purposes described herein.

Such Surplus shall be carried forward to future Fiscal Years, subject to the terms outlined herein, as a credit against any Shortfalls for future Fiscal Years such that any future Shortfall shall first be credited against the amounts of any existing Surplus in the Reconciliation Account prior to any payment by Carnival hereunder. Surplus amounts shall accrue each Fiscal Year where Carnival exceeds the Minimum Annual Guaranteed Payment for that year, not to exceed Three Million Dollars ($3,000,000.00) in the aggregate during the first four (4) Fiscal Years (the "First Surplus Cap"). Any amount in excess of the First Surplus Cap during this period shall be retained by the County. At the end of the first four (4) Fiscal Years (2011 through 2014), half of the existing Surplus, if any, shall carry over to the second four (4) Fiscal Year period (2015 through 2018) and the remaining half of the existing Surplus shall be retained by the County. During the second four (4) Fiscal Year period, Surplus amounts may accumulate each year, not to exceed Six Million Dollars ($6,000,000.00) in the aggregate during the second four (4) Fiscal Years (the "Second Surplus Cap"). Any amount in excess of the Second Surplus Cap during this period shall be retained by the County. At the end of the Term, County shall be entitled to retain any Surplus amounts. Carnival's obligations to pay the Minimum Annual Guaranteed Payment are subject to the terms of the Agreement including, without limitation, Articles 21A and 21B. To the extent funds in the Reconciliation Account are used during the Term as credits against Shortfall Amounts as hereinabove provided, then any future Surplus shall be used to replenish the account up to the applicable Surplus Cap. If the Reconciliation Account contains unused Surplus funds at the end of the Term, County shall be entitled to retain all such funds. Notwithstanding anything to the contrary herein, the payment by Carnival to the County of the Shortfall Amount as to any Fiscal Year shall represent the sole and exclusive liability of Carnival for failing to reach the Minimum Annual Guaranteed

Payment for such Fiscal Year and the fact that there exists a Shortfall shall not, in itself, constitute an event of default under the Agreement.

9. Section 4 of the Agreement is amended such that the Agreement shall expire September 30, 2018 and the renewal term shall be considered to have been exercised.

10. Section 4 of the Agreement is amended such that the last sentence of this section is deleted and replaced with the following:

> This paragraph shall not apply if the agreement with the other multiple night cruise operator guarantees more revenue to the County in aggregate over an eight (8) year time span than is guaranteed by Carnival from Fiscal Year 2011 through Fiscal Year 2018.

11. In consideration of Carnival's commitment to achieve its minimum annual guaranteed revenue obligations to the Port of Miami, the County agrees to provide Carnival with the following three additional financial incentives:

(i) Office Space - Carnival shall be entitled to the exclusive use of certain office space that expressly excludes areas used for common walkways and other areas, in Cruise Terminals D, E, and 10 free of charge for the purpose of processing passenger embarkations and debarkations. The office space in Cruise Terminals D, E, and 10 to which Carnival shall have complimentary use is a maximum of 2,000 square feet and is set forth in the attached Exhibit C. The Parties agree that the current office lease agreement shall terminate effective October 1, 2010.

(ii) Warehouse Space – Carnival shall be entitled to the exclusive use of warehouse space that expressly excludes areas used for common walkways and other areas, in Cruise Terminal 10 free of charge for the purpose of provisioning vessels. The warehouse space in Terminal 10 to which Carnival shall have complimentary use is a maximum of 2,000 square feet and is set forth in the attached Exhibit D. The Parties agree that the current warehouse lease agreement shall terminate effective October 1, 2010.

(iii) Market Incentive – In consideration of the brand recognition Carnival brings through its advertising campaigns to the year round drive market at the Port and the related economic benefits derived by the County therefrom, County will pay to Carnival a market incentive to be dedicated to promotion of cruises from the Port based on the parking revenue collected by County for those vehicles that park at the Port for the term of this Agreement (the "Market Incentive"). Carnival's Market Incentive shall be determined based on the proportion of Carnival embarkations to total embarkations at the Port. Embarkations associated with port-of-call vessels shall not be included in the calculation relating to Parking Revenues. As an example, if Carnival's embarkations are fifty percent (50%) of the Port's total embarkations then Carnival will receive fifty percent (50%) of Parking Revenues. The Port shall remit Parking Revenues to Carnival within sixty (60) days of the close

of each fiscal quarter, the first fiscal quarter close after the Effective Date of the First Amendment being December 30, 2010. For Fiscal Year 2010-2011, the Port has budgeted $10,400,000 in Parking Revenue based on 3,954,000 anticipated cruise passenger movements and an overnight parking rate of $20. County shall not reduce the number of parking spaces available for cruise passengers or adjust the parking rate without the prior written approval of Carnival provided, however, that such prior approval shall not be required for any parking rate adjustments made by the County of (i) less than 15% (on an annual basis or in the aggregate) during the first four (4) Fiscal Year period (2011 through 2014) or (ii) less than 15% (on an annual basis or in the aggregate) during the second four year period (2015 through 2018).

Carnival shall have the right, directly or through third party auditors, to inspect and audit the County's books and records relating to the revenues collected from parking at the Port and shall be entitled to retain copies of all such books and records. The County shall, on no less than 10 days prior written notice from Carnival, make all such books and records available to Carnival and/or its auditors and shall make County personnel familiar with such books and records reasonably available to Carnival and its auditors in connection with any such inspection or audit. County shall maintain such books and records in accordance with applicable law and shall otherwise keep such books and records for a period of three (3) years after expiration or other termination of the Agreement.

12. The Agreement, as amended by this First Amendment and all of the terms, conditions, and warranties contained therein, are hereby reaffirmed and shall continue in full force and effect except as specifically modified by this First Amendment.

13. The whereas clauses set forth above are incorporated into the body of this First Amendment as if fully set forth herein.

14. This First Amendment shall be governed by Florida Law.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed in their respective corporate names by the appropriate officers, and have their respective corporate seals to be affixed hereto, all as of the day and year first written above.

CARNIVAL CORPORATION

By: _____

ATTEST:

By: _____

_____

MIAMI-DADE COUNTY, FLORIDA

_____

ATTEST:

Clerk of the Board

_____. Approved as to form and legal sufficiency

EXHIBIT A

Amendment No. 1 to the Cruise Terminal Agreement Between Miami-Dade County and Carnival Corporation

Fiscal Year	Unitary Fee
2011	$13.60
2012	$14.01
2013	$14.43
2014	$14.86
2015	$15.31
2016	$15.77
2017	$16.24
2018	$16.73

Fiscal Year – October 1 through September 30
2011 Fiscal Year – October 1, 2010 through September 30, 2011

Unitary Fee - Fee assessed for each passenger embarkation and debarkation

EXHIBIT B

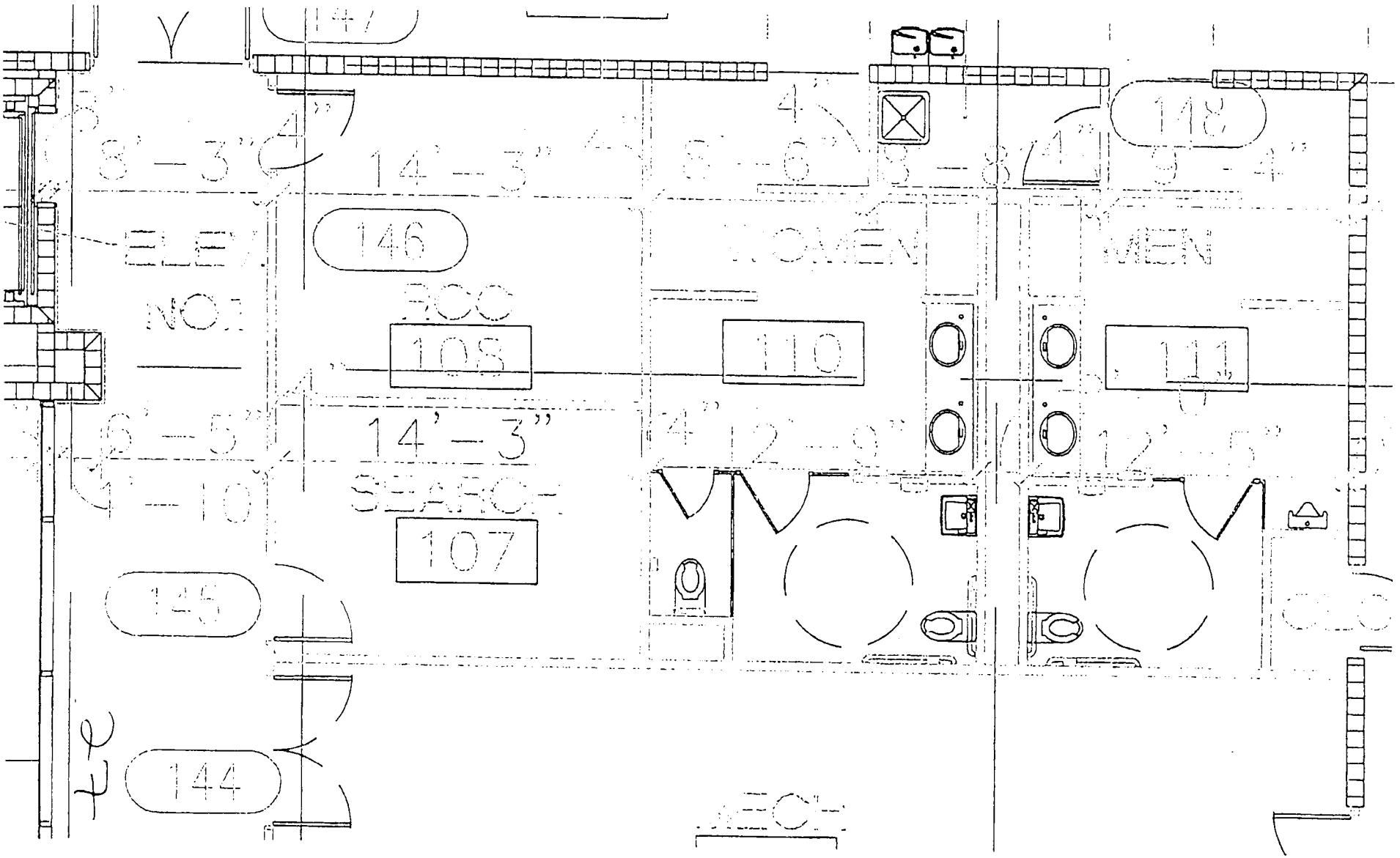
Amendment No. 1 to the Cruise Terminal Agreement Between Miami-Dade County and Carnival Corporation

Fiscal Year	Minimum Annual Guaranteed Payment
2011	$20,400,000
2012	$21,015,000
2013	$21,645,000
2014	$22,290,000
2015	$22,965,000
2016	$23,655,000
2017	$24,360,000
2018	$25,095,000
Total	$181,425,000

Fiscal Year – October 1 through September 30
2011 Fiscal Year – October 1, 2010 through September 30, 2011

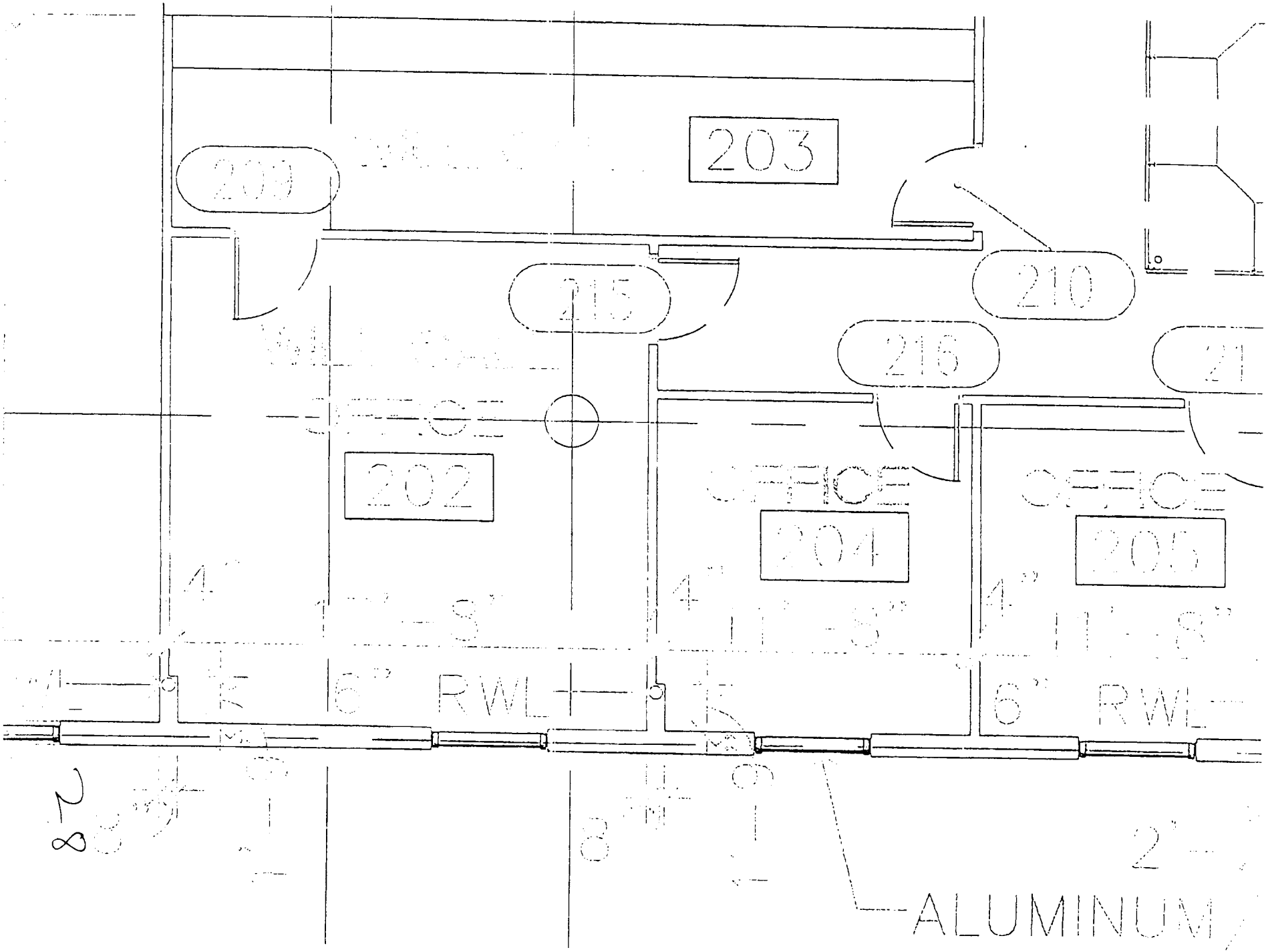
EXHIBIT C (P. 1 of 6)

TERMINALS D & E

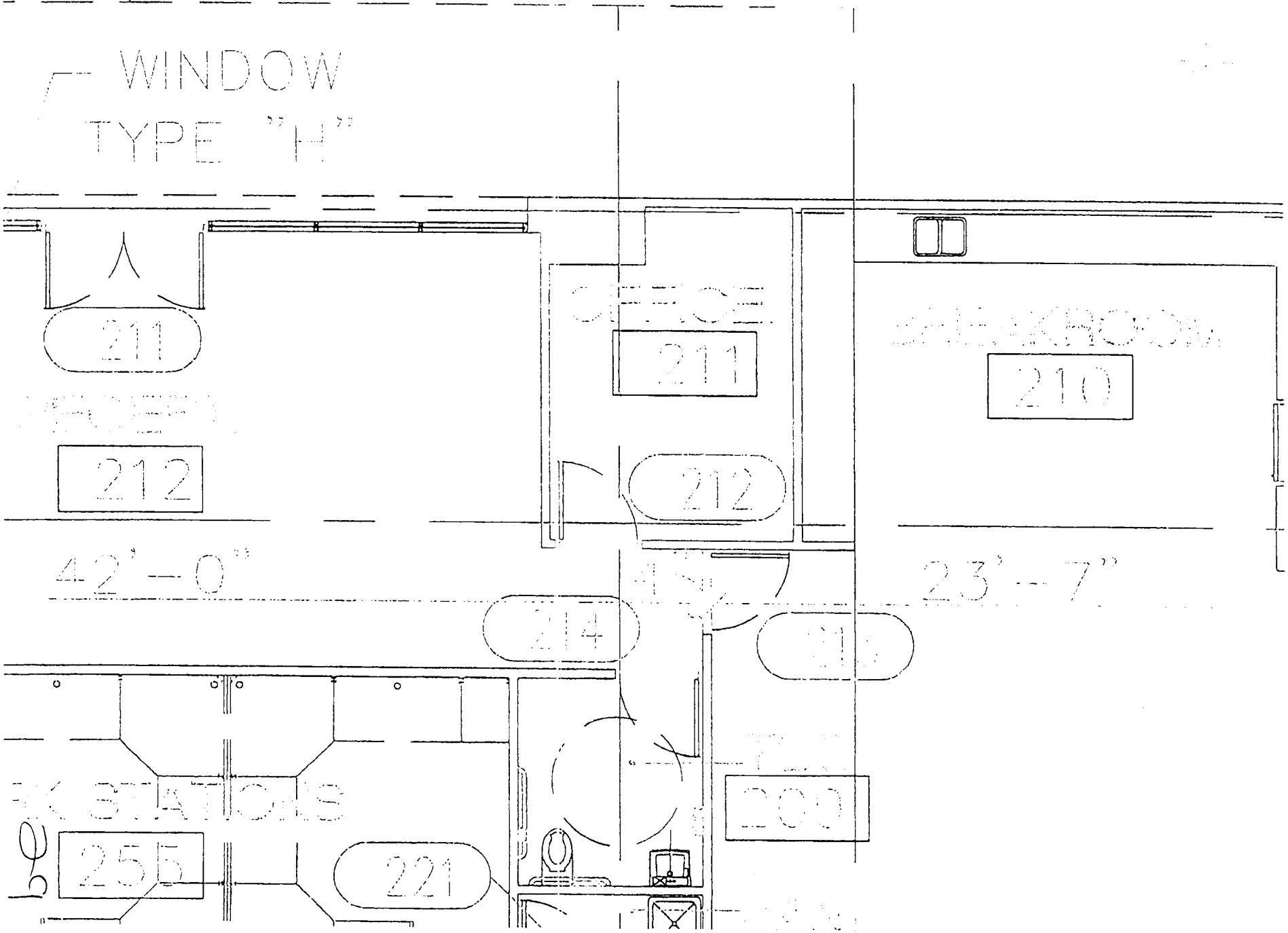


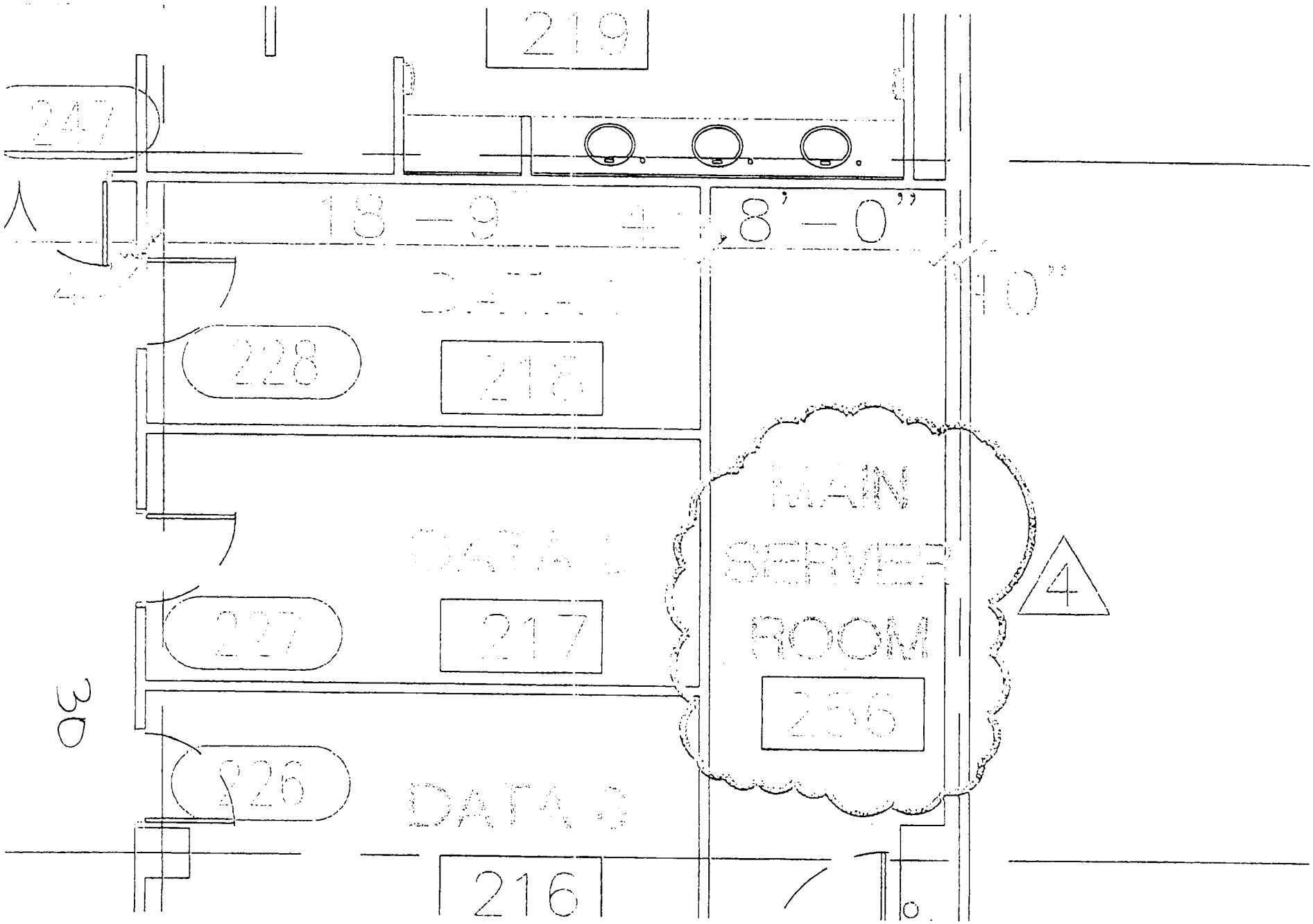
Office Space

1,646 (824 in TERM D & E)
TOTAL Square footage

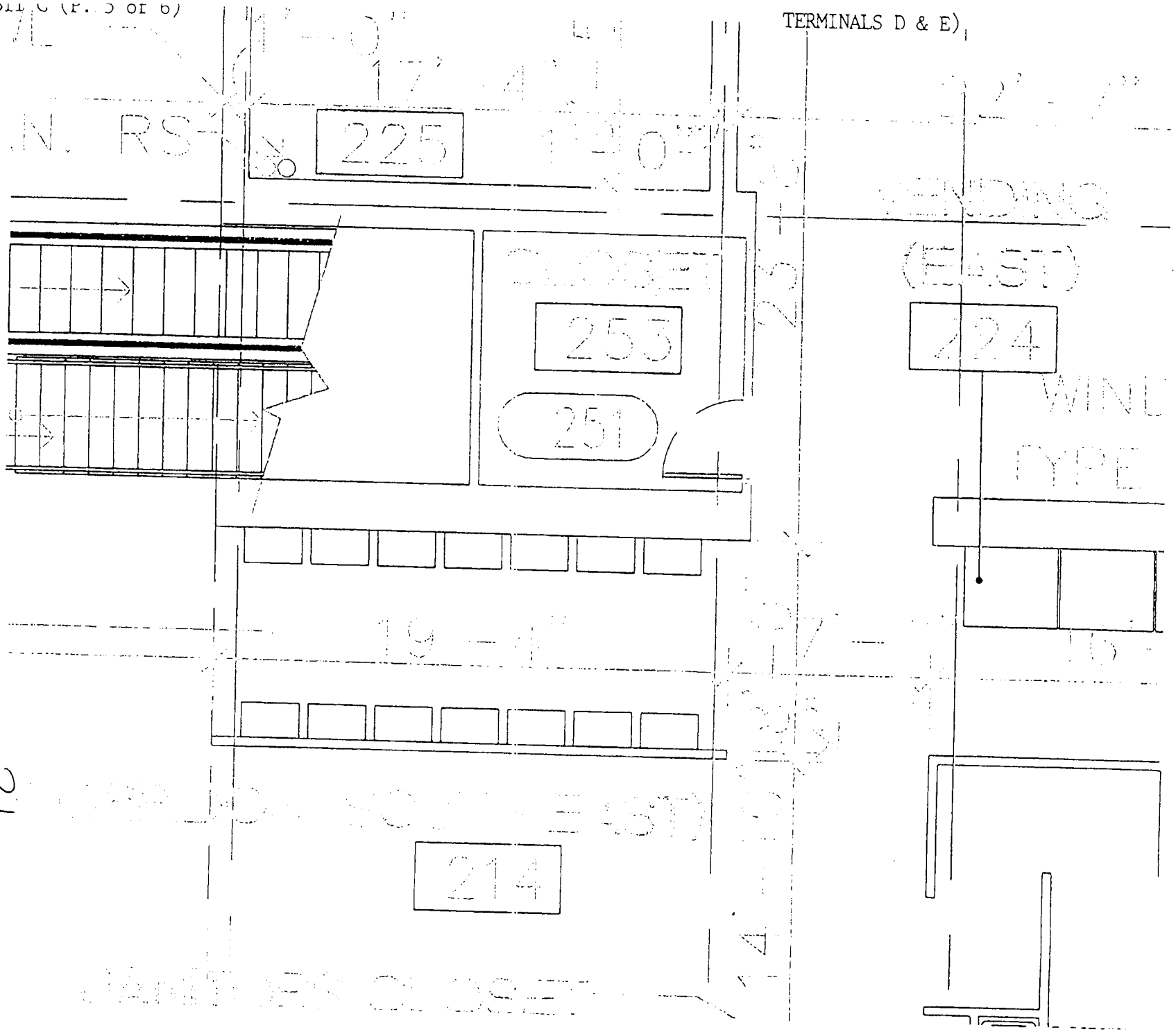

203
209
215
210
216
OFFICE
202
OFFICE
204
OFFICE
205
4"
4"
4"
6" RWL
6" RWL
2"
ALUMINUM

TERMINALS D & E)

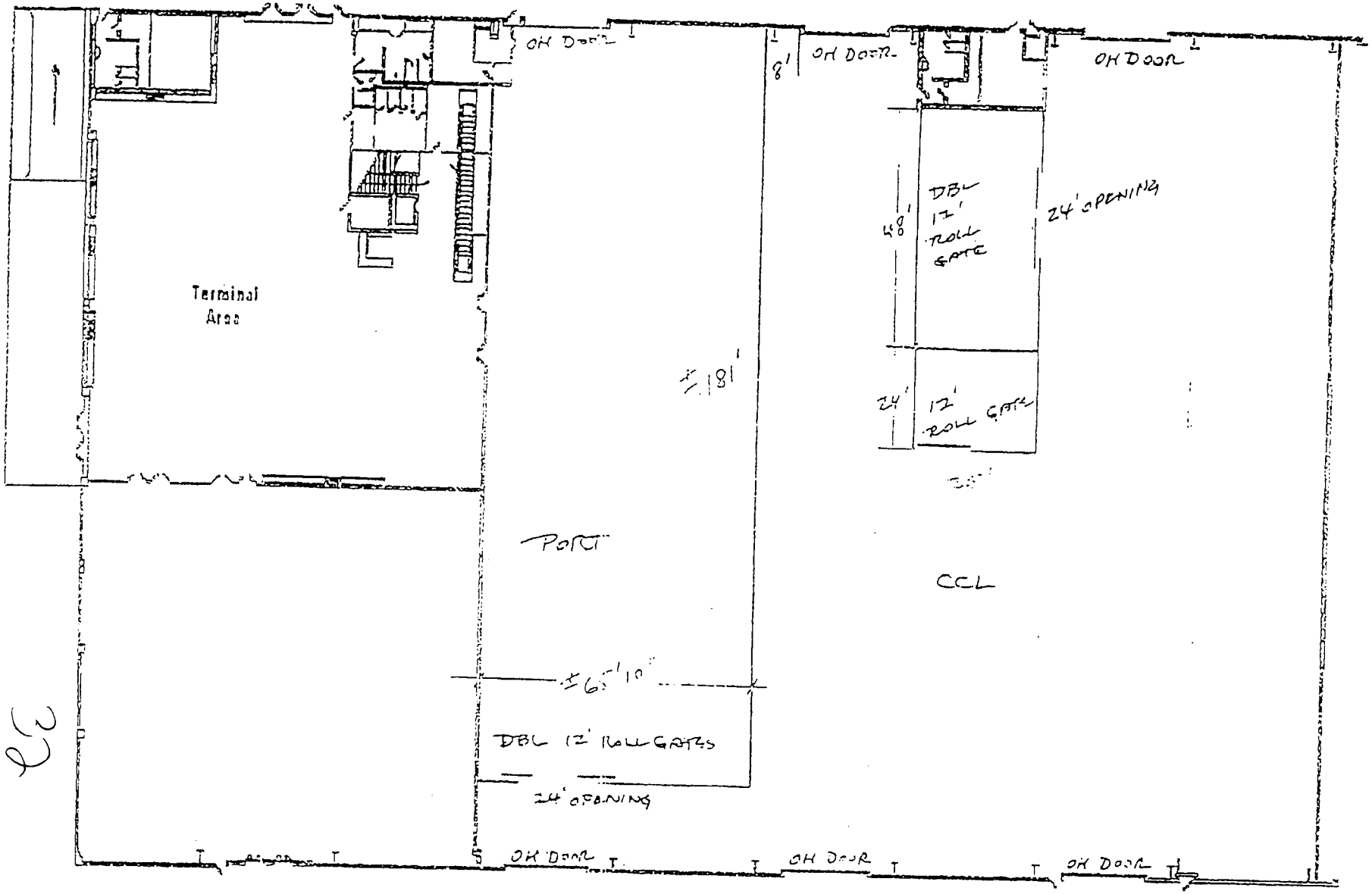




30


TERMINALS D & E)
225
253
251
224
214
(EAST)

Terminal 10



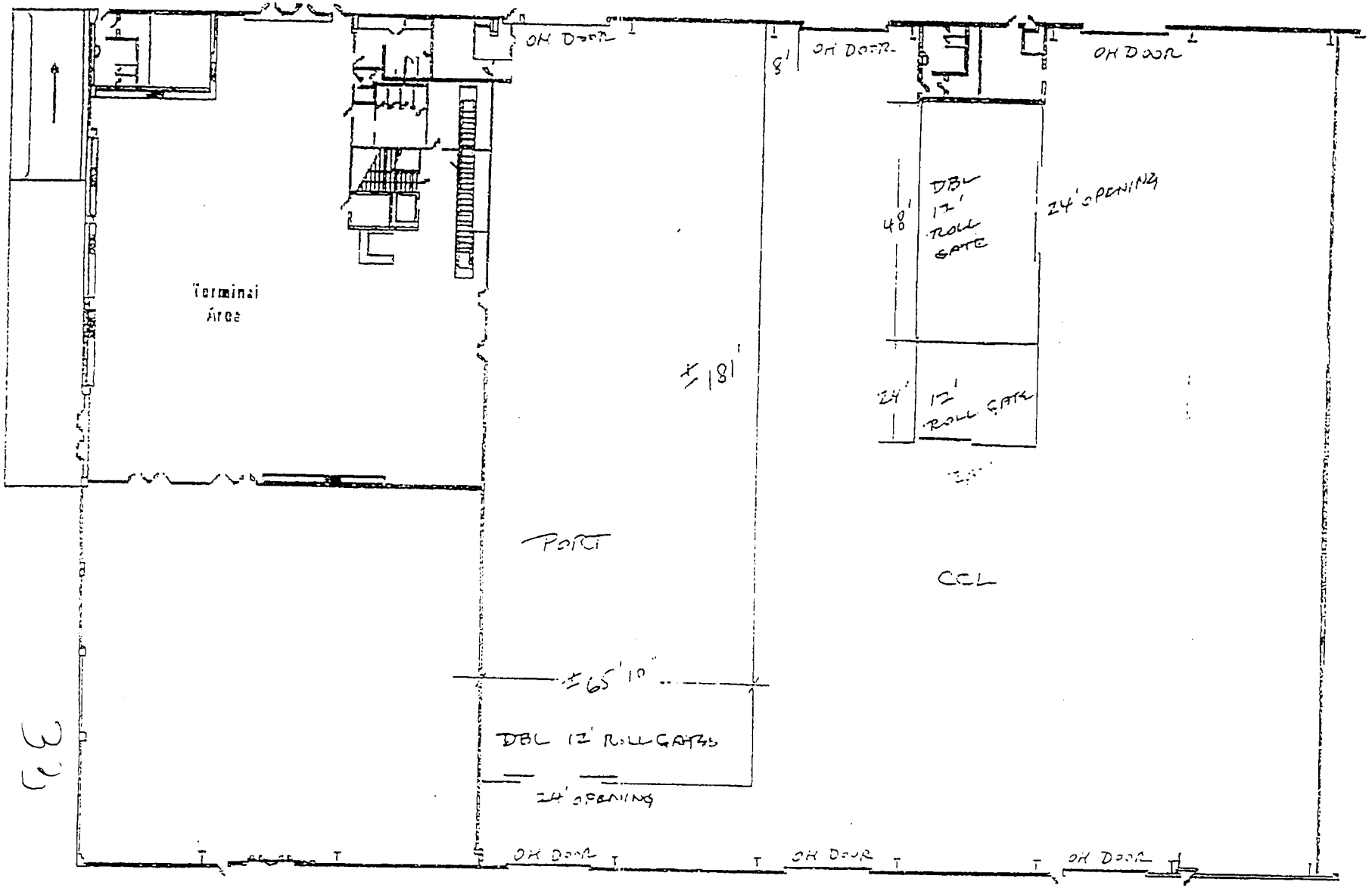
22

Office space

247 square feet

EXHIBIT D

Terminal 10



Warehouse Space

1,800 square feet