

**SECOND AMENDMENT TO THE MARINE TERMINAL LEASE AND OPERATING AGREEMENT  
BETWEEN BROWARD COUNTY AND CROWLEY LINER SERVICES, INC.**

This Second Amendment to the Marine Terminal Lease and Operating Agreement between Broward County and Crowley Liner Services, Inc., is made and entered into by and between Broward County, a political subdivision of the state of Florida ("County"), and Crowley Liner Services, Inc., a Delaware corporation authorized to transact business in the state of Florida ("Crowley") collectively, (the "Parties").

RECITALS

A. County and Crowley entered into that certain Marine Terminal Lease and Operating Agreement, dated June 14, 2016 (the "Original Agreement"), and First Amendment to the Original Agreement, dated November 2, 2017. The Original Agreement, as amended by the First Amendment, is hereinafter referred to as the "Agreement."

B. The Parties desire to further amend the Agreement to provide a revised description of the Premises, modified container (shipmoves) rate schedule and Minimum Annual Guaranteed Payments, modified rent credit provision, and modified early termination rights of Crowley.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

1. The above recitals are true and correct and are incorporated herein as if set forth in full hereunder.
2. Amendments made to the Agreement by this Second Amendment are indicated by use of strikethroughs to indicate deletions and underlining to indicate additions, unless otherwise stated.
3. Article 1, Section A of the Agreement is hereby amended to read as follows (original underlining omitted):

**1. PREMISES**

A. PREMISES

Effective as of ~~May 1, 2017~~ March 1, 2019, County does hereby demise and lease to Crowley and Crowley does hereby lease and take from County pursuant to the terms and conditions provided herein, that certain real property comprised of ±78 acres of land together with all appurtenances, rights, privileges, and hereditaments thereto, and all improvements thereon, located at Port Everglades, Broward County, Florida, as more particularly described on ~~Revised~~ Exhibit A-1 attached hereto ~~and made a part hereof,~~ hereinafter referred to as the (the "Premises").

4. Article 1, Section C of the Agreement is hereby deleted in its entirety and replaced by the following (underlining omitted):

C. REDUCTION IN THE SIZE OF THE PREMISES

[INTENTIONALLY LEFT BLANK]

5. Article 11 of the Agreement is hereby amended to read as follows (original underlining omitted):

**11. PER CONTAINER (SHIPMOVES) RATES AND ANNUAL MINIMUM GUARANTEED PAYMENT**

A. PER CONTAINER (SHIPMOVES) RATES

Effective May 1, 2016, County and Crowley acknowledge and agree to the per container (shipmoves) rate schedule attached ~~hereto~~ as Revised Exhibit B. Effective May 1, 2019, the per container (shipmoves) rate schedule set forth in Revised Exhibit B is deleted and replaced by the per container (shipmoves) rate schedule set forth in Exhibit B-1 attached. These rates do not include Port Everglades Tariff charges for breakbulk cargo, ship and container security fees, electricity, water, line handling services, applicable sales tax on land rental values and crane rental values, and container crane standby of more than one (1) hour or any other Port Everglades Tariff charges not specified herein, all of which, shall be billed separately by County. The per container (shipmoves) rate schedule is based on Crowley guaranteeing to County a minimum number of container (shipmoves) for each lease year as set forth in column C of Revised Exhibit D. Effective May 1, 2019, Revised Exhibit D is deleted and replaced by Exhibit D-1 attached. The per container (shipmoves) rates are in lieu of separate payment by Crowley of container yard land rent charges, dockage, cargo and container unit wharfage charges, crane rental fees (to include crane startup, shutdown, and crane standby of up to one (1) hour), and harbormaster fees.

...

B. ANNUAL MINIMUM GUARANTEE PAYMENT

1) Effective May 1, 2017 ~~hereof~~, and for each and every successive lease year over the Initial Term ~~hereof~~, until May 1, 2019, Crowley shall make annual guarantee payments to County as set forth in Revised Exhibit D attached hereto. Effective May 1, 2019, and for each and every successive lease year over the Initial Term, Crowley shall make annual guarantee payments to County as set forth in Exhibit D-1 attached. For the first lease year of this Agreement, Crowley shall pay County the sum of Ten Million Seven Hundred Seventy-one Thousand Two Hundred Dollars (\$10,771,200.00) as annual Minimum Guaranteed Payment ("MGP"). The ~~p~~Parties ~~hereto~~ expressly acknowledge and agree, that Crowley's annual MGP shall be adjusted for each and every successive lease

year thereafter on the annual anniversary of the Commencement Date (May 1st) hereof in accordance with Revised Exhibit D ~~attached hereto~~ and, commencing on May 1, 2019, in accordance with Exhibit D-1 attached. Crowley's Minimum Annual Guaranteed Container (shipmoves) shall be increased to One Hundred Seventy-one Thousand Six Hundred (171,600) ninety (90) calendar days after the date County's Port Everglades Department provides written notice to Crowley of the substantial completion of the Southport Turning Notch Project. Effective on the first day of lease years four (4), five (5), six (6), seven (7), eight (8), nine (9), and ten (10), the All-In Bundled Shipmoves Rate (column B) and the Minimum Annual Guaranteed Container (Shipmoves) (column C) amounts shall be adjusted as set forth in ~~Revised Exhibit B-1 attached hereto.~~

...

6. Article 14, Section G of the Agreement is hereby amended to read as follows (original underlining omitted):

G. COUNTY RENT CREDIT FOR CROWLEY PERMANENT IMPROVEMENTS ON PREMISES

Except as otherwise provided herein, it is expressly acknowledged and agreed that Crowley shall be responsible for all costs and expenses relating to (i) Crowley's improvements, including, but not limited to, the design, permitting, and construction thereof, and (ii) all other improvements necessary to Crowley's use of the Premises, including, but not limited to, improvements mandated by any governmental authority having jurisdiction over same but excluding improvements to be made by County as provided herein. County's Port Everglades Department shall provide Crowley with a one-time rent credit on its account, to reimburse Crowley for its costs and expenses associated with its design and construction of permanent container yard improvements, to include, but not be limited to, reefer plugs on the Premises. In order for Crowley to receive a rent credit from County, all of Crowley's permanent improvement(s) construction activities on the Premises must be substantially completed before the third (3<sup>rd</sup>) anniversary of the Commencement Date hereof. In no event shall the total County rent credit exceed One Million Two Hundred Thousand Dollars (\$1,200,000.00). Crowley shall provide County's Port Everglades Department with written receipts evidencing its direct costs and expenses incurred in connection with its design and construction of reefer plugs and other permanent improvements. Any approved rent credit shall be applied by County's Port Everglades Department to Crowley's monthly invoices in equal amounts over the first twenty-four (24) months following the date the total amount of the rent credit is approved by County's Port Everglades Department. All of Crowley's books and records relating to the design and construction work eligible for a rent credit and request(s) for reimbursement shall be subject to inspection, copying, and audit by County's auditors, upon reasonable written notice to Crowley. All such books and records shall be made available to County's auditors in Broward County, Florida. In addition, effective March 1, 2019, in recognition of the permanent improvements Crowley made to a portion of the

Premises it occupied as of June 14, 2016, County shall provide Crowley with a one-time lump sum rent credit in the amount of Seven Hundred Thirty-five Thousand Dollars (\$735,000.00).

7. Article 35, Section A of the Agreement is hereby amended to read as follows (original underlining omitted):

### **35. CROWLEY'S EARLY TERMINATION RIGHTS**

#### **A. DELAY TO COUNTY'S SUBSTANTIAL COMPLETION DATE FOR THE SOUTHPORT TURNING NOTCH CONSTRUCTION PROJECT**

Crowley may elect to terminate this Agreement in the event County's intended substantial completion date for the Southport Turning Notch Construction Project [to wit: December 31, ~~2019~~ 2022], is delayed six (6) or more months. County's Port Everglades Department shall provide Crowley with written notice of a six (6) or more months' delay to the ~~aforsaid~~ substantial completion date within thirty (30) calendar days following County's Port Everglades Department's finalization of the exact nature and duration of the delay ("Delay Notice"). The Delay Notice shall include the new intended substantial completion date. Crowley shall have one hundred twenty (120) calendar days ~~from~~ after the date the Delay Notice ~~was~~ is sent by County's Port Everglades Department to elect to terminate this Agreement or ~~otherwise forfeit its early termination rights~~ lose its right to terminate this Agreement under this provision.

In the event Crowley elects to ~~exercise its early termination rights~~ terminate this Agreement pursuant to this subsection, it shall provide County's Port Everglades Department with written notice of its election to terminate ("Termination Notice"). The effective termination date of this Agreement shall be provided in the Termination Notice and shall not be later than twelve (12) months from after the date of Crowley's ~~written~~ Termination Notice ("Wind Down Period"). Crowley shall, accordingly, wind down its business operations and affairs at Port Everglades over said Wind Down Period and quit and surrender ~~its leasehold interest at Southport, Port Everglades,~~ the Premises to County by the effective termination date. Crowley shall continue to pay County the annual Minimum Guaranteed Payment (MGP) amount for the Wind Down Period, which shall be in an amount reduced to ninety percent (90%) of the then existing annual MGP amount, prorated monthly, as applicable. Termination under this section shall not be deemed a Default or Triggering Event, and upon the effective termination date, the Parties shall thereafter be released and relieved from all further obligations hereunder, except for those obligations of Crowley that survive the expiration or early termination of this Agreement.

Further, in the event ~~of such early termination by~~ Crowley elects to terminate this Agreement, County will compensate Crowley for ~~the any~~ any permanent improvements, ~~if any,~~ it had made to the Premises, ~~following the Commencement Date of this Agreement~~ in an amount based upon an appraisal methodology and fair market value calculation that at a

minimum: i) provides County with a credit that equals the amount of the total rent credit previously provided to Crowley by County pursuant to Section 14 G herein; (ii) does not value the improvements at more than their depreciated value, and (iii) does not utilize an appraisal method that includes or attributes any economic value to the improvements, ~~and (iii) provides County with an offset/credit in the full amount of the credit provided by County to Crowley pursuant to Section 14 G herein~~. If the Parties ~~hereto~~ cannot agree upon an appraisal method, the procedure set forth hereinbelow shall be followed, and a panel of three (3) appraisers shall follow the guidelines hereinabove set forth.

The Parties ~~hereto~~, acting reasonably, shall attempt to agree on the methodology to be used in such appraisal within ninety (90) calendar days after County's Port Everglades Department's receipt of Crowley's Termination Notice. If the Parties agree on the appraisal methodology, the Parties ~~hereto~~ shall each select an appraiser to serve on a panel as hereinafter provided, to determine only the fair market value. If the Parties ~~hereto~~ do not agree on the appraisal methodology, they shall each select an appraiser to serve on a panel as hereinafter provided, to determine both the appraisal methodology and the fair market value. Each Party ~~hereto~~ shall give notice to the other of the identity of the appraiser it wishes to designate, and such individual shall be a MAI appraiser, with at least ten (10) years' experience in determining valuation of commercial properties in Broward County or the surrounding area. The two (2) appraisers thus selected, shall, within fifteen (15) calendar days, designate a third, neutral, and similarly qualified individual to serve as the neutral chairperson of a panel of three (3) appraisers. If the two (2) appraisers cannot agree upon a neutral, third appraiser, then the Parties ~~hereto~~ shall submit the matter to the South Florida Chapter of the Appraisal Institute for selection of the neutral third appraiser. If the Parties ~~hereto~~ agree on the appraisal methodology, the panel of three (3) appraisers shall then determine only the fair market value. If the Parties ~~hereto~~ do not agree on the appraisal methodology, the panel of three (3) appraisers shall then determine both the appraisal methodology and the fair market value for the improvements. The panel of three (3) appraisers shall be permitted to request such further information from the Parties ~~hereto~~ as they may require to make their determination, and shall be permitted to conduct such further investigation, including requesting records of either Party ~~hereto~~, as they may require to render its decision. The panel of three (3) appraisers shall issue its decision within forty-five (45) calendar days after the conclusion of its deliberations and shall provide a written explanation of its conclusions to County's Port Everglades Department and Crowley. The agreement to submit this valuation process to a panel of three (3) appraisers is specifically enforceable by both the Parties hereto in any court having jurisdiction over the improvements. No individual who is, or has at any time been, an officer, employee, or consultant of either Party ~~hereto~~ may serve as a member of the panel without the express written consent of both the Parties. The decision of the panel of three (3) appraisers will be final and binding upon the Parties ~~hereto~~ and may be entered in any court having jurisdiction over the improvements.

Notwithstanding the foregoing, in the event circumstances surrounding the six (6) ~~months~~ or more month delay should materially change (within one hundred ~~twenty (120)~~

(100) calendar days ~~from~~ after the date the Delay Notice was sent by County's Port Everglades Department to Crowley), leading to a conclusion by County's Port Everglades Department that the expected delay to the ~~aforsaid~~ aforsaid substantial completion date will not exceed six (6) or more months, then County's Port Everglades Department shall immediately notify Crowley in writing of any shortened delay schedule. In such event, Crowley shall have the right to rescind any ~~Termination Notice~~ Termination Notice previously sent under this ~~subsection~~ subsection given under this article to County's Port Everglades Department.

8. The Agreement is amended to include Exhibits A-1, B-1, and D-1 attached to this Second Amendment.

9. Effective March 1, 2019, all references to Revised Exhibit A in the Agreement are hereby deleted and replaced by Exhibit A-1.

10. Effective May 1, 2019, all references to Revised Exhibit B and Revised Exhibit D are hereby deleted and replaced respectively by Exhibit B-1 and Exhibit D-1.

11. Preparation of this Second Amendment has been a joint effort of County and Crowley, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

12. Except as expressly modified herein, all other terms and conditions of the Agreement shall remain in full force and effect.

13. This Second Amendment is effective upon the date of complete execution by the Parties.

14. This Second Amendment may be executed in multiple originals, and may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, will constitute one and the same document.

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**SECOND AMENDMENT TO THE MARINE TERMINAL LEASE AND OPERATING AGREEMENT  
BETWEEN BROWARD COUNTY AND CROWLEY LINER SERVICES, INC.**

**Crowley**

ATTEST:

CROWLEY LINER SERVICES, INC., a Delaware corporation, authorized to transact business in the state of Florida

\_\_\_\_\_  
Corporate Secretary

(SEAL)

By: 

Patrick Collins, VP  
(Print name and title)

WITNESSES:

  
(Signature)

MAXWELL T. WIGGLESWORTH  
(Print name)

  
(Signature)

Edward J. Conroy  
(Print name)

16 day of January, 2019



EXHIBIT A-1

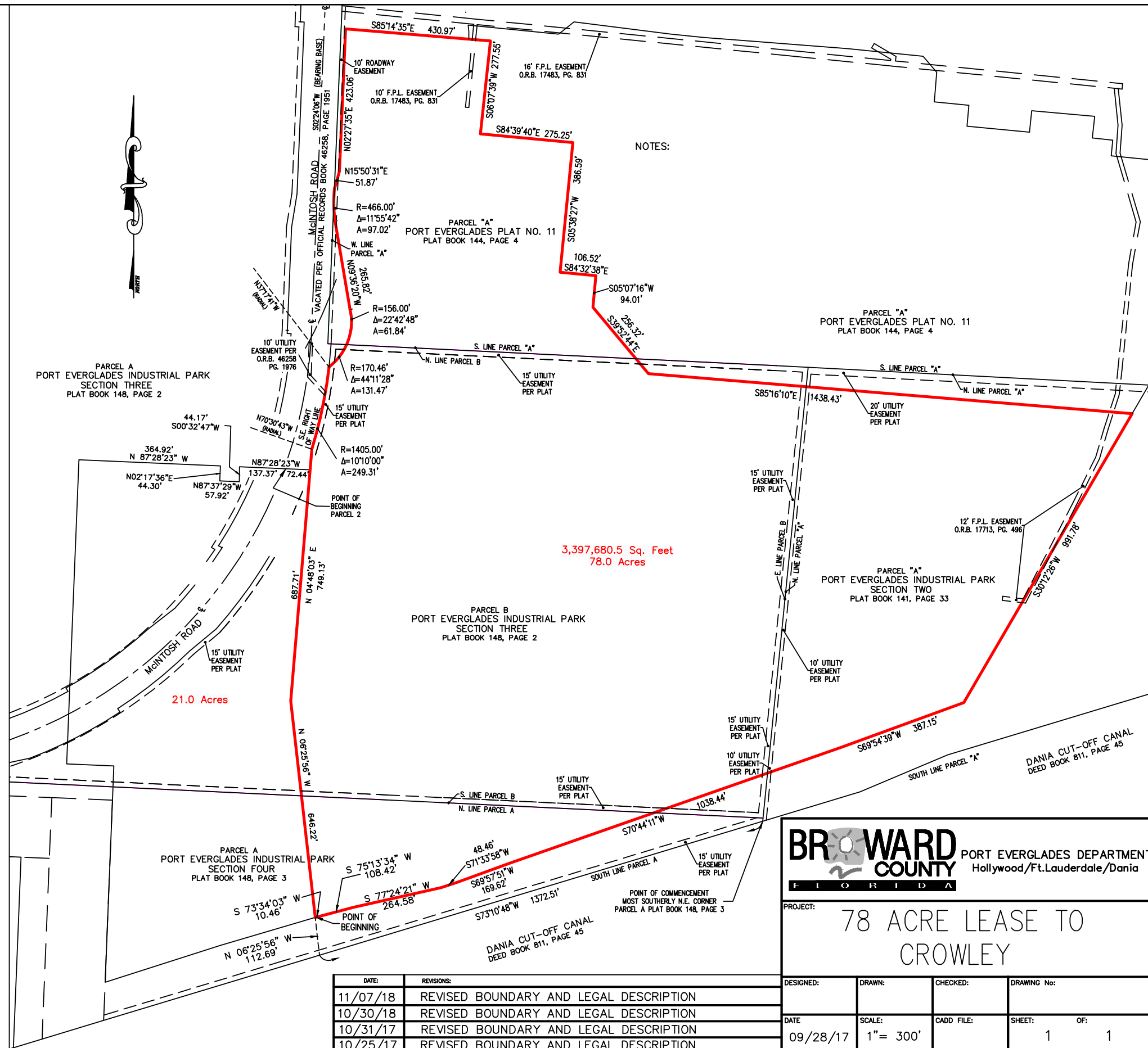
LEGAL DESCRIPTION:

A PORTION OF PARCEL "A", PORT EVERGLADES INDUSTRIAL PARK SECTION TWO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 141, PAGE 33 AND A PORTION OF PARCEL B, PORT EVERGLADES INDUSTRIAL PARK SECTION THREE ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 148, PAGE 2 AND A PORTION OF PARCEL A, PORT EVERGLADES INDUSTRIAL PARK SECTION FOUR, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 148, PAGE 3 AND A PORTION OF PARCEL A, PORT EVERGLADES PLAT NO. 11 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 144, PAGE 4, ALL AS RECORDED IN THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE MOST SOUTHERLY NORTHEAST CORNER OF PARCEL A OF SAID PORT EVERGLADES INDUSTRIAL PARK SECTION FOUR; THENCE SOUTH 73°10'48" WEST, ALONG THE SOUTH LINE OF SAID PARCEL A, A DISTANCE OF 1372.51 FEET; THENCE NORTH 06°25'56" WEST, A DISTANCE OF 112.69 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 06°25'56" WEST, A DISTANCE OF 646.22 FEET; THENCE NORTH 04°48'03" EAST, A DISTANCE OF 749.13 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF McINTOSH ROAD (NOW VACATED) AS SHOWN ON SAID PORT EVERGLADES INDUSTRIAL PARK SECTION THREE PLAT, SAID POINT BEING ON THE ARC OF A CIRCULAR CURVE TO THE LEFT WHOSE RADIUS POINT BEARS NORTH 70°30'43" WEST FROM THE LAST DESCRIBED POINT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 1405.00 FEET, A CENTRAL ANGLE OF 10°10'00" FOR A DISTANCE OF 249.31 FEET TO A POINT ON THE ARC OF A CIRCULAR CURVE TO THE LEFT WHOSE RADIUS POINT BEARS NORTH 37°17'41" WEST FROM THE LAST DESCRIBED POINT; THENCE NORTHEASTERLY AND NORTHERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 170.46 FEET, A CENTRAL ANGLE OF 44°11'28" FOR A DISTANCE OF 131.47 FEET TO THE POINT OF COMPOUND CURVATURE OF A CIRCULAR CURVE TO THE LEFT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 156.00 FEET, A CENTRAL ANGLE OF 22°42'48", FOR A DISTANCE OF 61.84 FEET TO THE POINT OF TANGENCY; THENCE NORTH 09°36'20" WEST, A DISTANCE OF 265.82 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE RIGHT; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 466.00 FEET, A CENTRAL ANGLE OF 11°55'42" FOR A DISTANCE OF 97.02 FEET; THENCE NORTH 15°50'31" EAST, ALONG A LINE NOT RADIAL TO THE LAST DESCRIBED CURVE A DISTANCE OF 51.87 FEET; THENCE NORTH 02°27'35" EAST, A DISTANCE OF 423.06 FEET; THENCE SOUTH 85°14'35" EAST, A DISTANCE OF 430.97 FEET; THENCE SOUTH 06°07'39" WEST, A DISTANCE OF 277.55 FEET; THENCE SOUTH 84°39'40" EAST, A DISTANCE OF 275.25 FEET; THENCE SOUTH 05°38'27" WEST, A DISTANCE OF 386.59 FEET; THENCE SOUTH 84°32'38" EAST, A DISTANCE OF 106.52 FEET; THENCE SOUTH 05°07'16" WEST, A DISTANCE OF 94.01 FEET; THENCE SOUTH 39°52'44" EAST, A DISTANCE OF 256.32 FEET; THENCE SOUTH 85°16'10" EAST, A DISTANCE OF 1438.43 FEET; THENCE SOUTH 30°12'26" WEST, A DISTANCE OF 991.78 FEET; THENCE SOUTH 69°54'39" WEST, A DISTANCE OF 387.15 FEET; THENCE SOUTH 70°44'11" WEST, A DISTANCE OF 1038.44 FEET; THENCE SOUTH 69°57'51" WEST, A DISTANCE OF 169.62 FEET; THENCE SOUTH 71°33'58" WEST, A DISTANCE OF 48.46 FEET; THENCE SOUTH 77°24'21" WEST, A DISTANCE OF 264.58 FEET; THENCE SOUTH 75°13'34" WEST, A DISTANCE OF 108.42 FEET; THENCE SOUTH 73°34'03" WEST, A DISTANCE OF 10.46 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA CONTAINING 78.0 ACRES (3,397,680.5 SQUARE FEET) MORE OR LESS.

1. THIS IS NOT A SKETCH OF SURVEY, but only a graphic depiction of the description shown hereon. There has been no field work, viewing of the subject property, or monuments set in connection with the preparation of the information shown hereon.
2. THE BEARINGS SHOWN HEREON ARE BASED ON AN ASSUMED MERIDIAN. THE CENTERLINE OF McINTOSH ROAD IS ASSUMED TO BEAR SOUTH 02°24'06" WEST AS SHOWN ON THE PLAT OF PORT EVERGLADES INDUSTRIAL PARK SECTION THREE, PLAT BOOK 148, PAGE 2 BROWARD COUNTY RECORDS.



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**BROWARD COUNTY** PORT EVERGLADES DEPARTMENT  
Hollywood/Ft.Lauderdale/Dania

PROJECT: **78 ACRE LEASE TO CROWLEY**

DESIGNED:	DRAWN:	CHECKED:	DRAWING No:
DATE	SCALE:	CADD FILE:	SHEET: OF:
09/28/17	1" = 300'		1 1

DATE:	REVISIONS:
11/07/18	REVISED BOUNDARY AND LEGAL DESCRIPTION
10/30/18	REVISED BOUNDARY AND LEGAL DESCRIPTION
10/31/17	REVISED BOUNDARY AND LEGAL DESCRIPTION
10/25/17	REVISED BOUNDARY AND LEGAL DESCRIPTION

**Exhibit B-1**

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>
<b>Lease Year</b>	<b>All in Bundled Shipmove Rate</b>	<b>Minimum Annual Guaranteed Container Shipmoves</b>	<b>Tier 1 Shipmoves</b>	<b>Tier 1 Shipmove Rate</b>	<b>Tier 2 Shipmoves</b>	<b>Tier 2 Shipmove Rate</b>
May 1 2016 - April 30 2017	\$ 64.00	168,300	168,301-193,300	\$ 54.00	193,301+	\$ 44.00
May 1 2017 - April 30 2018	\$ 65.12	145,600	145,601-170,600	\$ 55.12	170,601+	\$ 45.12
May 1 2018 - April 30 2019	\$ 66.26	158,600	158,601-183,600	\$ 56.26	183,601+	\$ 46.26
May 1 2019 - April 30 2020		165,126	165,127-190,126		190,126+	
May 1 2020 - April 30 2021		165,126	165,127-190,126		190,126+	
May 1 2021 - April 30 2022	<i>as adjusted by CPI with a max of 3%</i>	165,126*	165,127-190,126	<i>less \$10.00 of the adjusted All-in Bundled Shipmove Rate</i>	190,126+	<i>less \$20.00 of the adjusted All-in Bundled Shipmove Rate</i>
May 1 2022 - April 30 2023		165,126*	165,127-190,126		190,126+	
May 1 2023 - April 30 2024		171,600	171,601-196,600		196,601+	
May 1 2024 - April 30 2025		171,600	171,601-196,600		196,601+	
May 1 2025 - April 30 2026		171,600	171,601-196,600		196,601+	

*\*Subject to adjustment as set forth in Article 11 .B. 1)*

Exhibit D-1

A Lease Year	B All-in Bundled Shipmove Rate	C Minimum Annual Guaranteed Container Shipmoves	D Minimum Annual Guaranteed Payment
May 1 2016 - April 30 2017	\$ 64.00	168,300	\$ 10,771,200
May 1 2017 - April 30 2018	\$ 65.12	145,600	\$ 9,481,472
May 1 2018 - April 30 2019	\$ 66.26	158,600	\$ 10,508,773
May 1 2019 - April 30 2020		165,126	
May 1 2020 - April 30 2021		165,126	
May 1 2021 - April 30 2022	<i>as adjusted by CPI with a max of 3%</i>	165,126*	<i>as adjusted by CPI with a max of 3%</i>
May 1 2022 - April 30 2023		165,126*	
May 1 2023 - April 30 2024		171,600	
May 1 2024 - April 30 2025		171,600	
May 1 2025 - April 30 2026		171,600	

\*Subject to adjustment as set forth in Article 11 .B. 1)