

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 19TH DAY OF FEBRUARY, NINETEEN HUNDRED NINETY-ONE, AT 1:07 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Thomas K. Norment, Jr., Chairman, Roberts District
Judith N. Knudson, Vice Chairman, Jamestown District

Perry M. DePue, Powhatan District (Absent)
Jack D. Edwards, Berkeley District
Stewart U. Taylor, Stonehouse District
David B. Norman, County Administrator
Leo P. Rogers, Assistant County Attorney

B. MINUTES - February 4, 1991

Mr. Norment asked if there were corrections or additions to the minutes.

Mr. Edwards made a motion to approve the minutes as presented.

On a roll call, the vote was: AYE: Taylor, Edwards, Knudson, Norment (4). NAY: (0).

C. HIGHWAY MATTERS

Mr. Frank N. Hall, Resident Engineer, Virginia Department of Transportation, stated that a public hearing had been held on North Riverside Drive; Ms. Knudson and Mr. Edwards' request to paint directional lines at Route 199 and Kingspoint Access Road crossover was being studied by traffic engineers; and, a response would be forthcoming to Mr. DePue's request regarding review of the condition of new road construction from Longhill Road to the church on Centerville Road.

Mr. Taylor requested that a dead poplar tree on Richmond Road past the Olive Branch Church be removed and asked about the status of drainage problems on Forge Road.

Mr. Hall responded that estimates were being prepared for building-up the roadway or piping ditches for the drainage problems on Route 610/Lakeview Drive, near the intersection with Route 603, and Hicks Island Road.

Mr. John T. P. Horne, Manager, Development Management, explained that construction projects were included in and funded by the Six-Year Secondary Road Plan.

Ms. Knudson asked that a check be made of need for lighting at the intersection of Longhill Road and Longhill Connector Road near The Mews subdivision.

Mr. Hall responded that his department would look into the need for road or pavement markers at that location.

Ms. Knudson asked staff to look into lighting for that intersection.

D. CONSENT CALENDAR

Mr. Norment asked if any Board member wished to remove an item from the Consent Calendar.

Mr. Norment made a motion to approve the Consent Calendar.

On a roll call, the vote was: AYE: Taylor, Edwards, Knudson, Norment (4). NAY: (0).

1. Chickahominy Road Relocation

R E S O L U T I O N

CHICKAHOMINY ROAD RELOCATION, PROJECT: 0631-047-112, C-501

WHEREAS, Secondary Route 631 (Chickahominy Road) from Route 60 (Richmond Road) south to Route 631 (Little Creek Dam Road), a distance of 2.25 miles, has been altered and a new road has been constructed and approved by the Virginia Department of Transportation, which new road serves the same citizens as the road so altered; and

WHEREAS, certain sections of the new road follow new locations, these being shown on the attached sketch titled "Changes in the Secondary System Due to Relocation and Construction on Route 631, Project: 0631-047-112, C-501" dated August 10, 1990.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the sections of old location, identified as Sections 1, 2, 3, 4, 5, 6 and 7, and shown in "blue" on the attached sketch, titled, "Changes in the Secondary System due to Relocation and Construction on Route 631, Project: 0631-047-112, C-501," a distance of 0.94 miles, be and the same hereby are abandoned as a public road, pursuant to Section 33.1-155 of the Code of Virginia of 1950, as amended.

BE IT FURTHER RESOLVED that the portions of Secondary Route 631 identified as Sections 8, 9, 10, 11, 12, 13 and 14, and shown in "red" on the aforementioned sketch, a total distance of 0.94 miles, be and hereby are added to the Secondary System of State Highways pursuant to Section 33.1-229 of the Code of Virginia of 1950, as amended.

BE IT FURTHER RESOLVED, that this resolution be forwarded to the Resident Engineer of the Virginia Department of Transportation.

2. District Court Services Unit Lease

R E S O L U T I O N

COURT SERVICES UNIT LEASE

WHEREAS, the Board of Supervisors of James City County has been requested to extend the current lease of the Court Services Unit for a five-year period, in partnership with the City of Williamsburg, and the extension is for a lesser amount than is now being paid.

NOW, THEREFORE, BE IT RESOLVED that the County Administrator is authorized to execute, on behalf of the Board of Supervisors, a lease document extending the lease for space now occupied by the Court Services Unit through March 31, 1996.

3. James City County Redistricting Advisory Committee

R E S O L U T I O N

REDISTRICTING ADVISORY COMMITTEE

WHEREAS, the Board of Supervisors is required by law to review the figures submitted under the 1990 census to determine whether a redistricting of the County is desirable or mandated; and

WHEREAS, the Board of Supervisors is of the opinion that a Citizen Advisory Committee would enhance the process of redistricting by involving a cross section of the County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, that it hereby appoints the following residents to serve as members of the James City County Redistricting Advisory Committee:

Shirley Hundley
 Albert White, IV
 William Randall
 Gene Farley
 Harry Knight
 Abram Frink
 Ursula Murden
 Robert Davis
 Elvin Jones
 Jay Everson

E. PUBLIC HEARINGS

1. Ordinance Amendment, Chapter 9 - Licenses, Massage Parlors

Mr. Leo P. Rogers, Assistant County Attorney, stated that the proposed amendments would allow a massage technician to graduate from a massage school approved by the Virginia Department of Education, along with the requirement that the technician must have 500 hours of experience before issuance of a permit. He indicated the proposed permit fee would be \$500 for the first year and \$100 each year thereafter, with an initial application fee of \$50 per massage technician and a \$10 renewal fee each year thereafter.

Staff recommended approval of the amendments.

The Board discussed reviewing the proposals with adopted ordinances of Newport News and Hampton; individual exemptions; and, amount of permit fees.

Mr. Norment opened the public hearing.

1. Mr. David Otey, Jr., 109 Peter Lyall, on behalf of Busch Properties who is considering addition of massage to the Kingsmill Resort and Conference Center Sports Club, stated concern with the 500 hours of apprenticeship requirement. He distributed pages with language for Section 9-119(e).

2. Ms. Cynthia A. McConkie, Route 3, Box 182C, spoke in opposition to the ordinance and suggested therapeutic legitimate massage technicians be exempted from the ordinance, or a new ordinance be prepared to regulate massage.

3. Ms. Barbara Bunn, 106 Archer's Hope Road, owner of New Images, Inc., expressed concerns with the proposed ordinance, asked about how the \$500 permit fee was set and where the funds would be used, and suggested comparing this ordinance proposal with Newport News and Hampton's ordinances.

4. Mrs. Helen Milbank, 3022 Willow Spring Court, spoke in favor of the ordinance and respectfully urged the Board to approve an amendment to exempt trained massage therapists as have the cities of Newport News and Hampton.

Mr. Edwards made a motion to postpone the case until the March 18, 1991, Board of Supervisors' meeting.

Mr. Norment asked staff to provide Mr. Taylor with the ordinances from Newport News and Hampton.

With Board consensus, Mr. Norment postponed the item and continued the public hearing until March 18, 1991, meeting.

2. Case No. SUP-56-90. Chesapeake and Potomac Telephone Company, Fiber Optics Receiver Station

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that Mr. Vernon Geddy, III, had applied on behalf of the Chesapeake and Potomac Telephone Company of Virginia for a special use permit to allow a telephone switching station in A-1, General Agricultural, a one-acre parcel located approximately 750 feet south of Centerville Road's intersection with Jolly Pond Road, adjacent to James River Baptist Church, further identified as Parcel (1-2) on James City County Real Estate Tax Map No. (30-3).

In concurrence with staff, the Planning Commission unanimously recommended approval of the resolution with conditions listed in the resolution.

Mr. Norment opened the public hearing.

1. Mr. Vernon Geddy, III, Esq., stated he was available to answer questions.

Mr. Norment closed the public hearing.

Mr. Norment made a motion to approve the resolution.

On a roll call, the vote was: AYE: Taylor, Edwards, Knudson, Norment (4). NAY: (0).

R E S O L U T I O N

CASE NO. SUP-56-90. C & P TELEPHONE COMPANY

FIBER OPTICS RECEIVER STATION

WHEREAS, the Board of Supervisors of James City County has adopted by Ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following its public hearing voted to recommend approval of Case No. SUP-56-90 to permit a telephone switching station in the A-1, General Agricultural District on property identified as Parcel (1-2) on James City County Real Estate Tax Map No. (30-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-56-90 as described herein with the following conditions:

1. If construction has not commenced on this project within a period of 18 months from the date of issuance of the special use permit, it shall become void.

2. Additional planted buffering shall be placed at the northern boundary line adjacent to the James River Baptist Church. Emphasis shall be placed on buffering the building and parking areas from the adjacent use. Such buffering shall be approved by the Planning Director.
3. Existing vegetation shall be retained within the 30-foot landscape buffer along Centerville Road except for areas cleared to provide for a single entrance, necessary utilities and drainage structures as approved by the Planning Director.

F. BOARD CONSIDERATIONS

1. Case No. Z-4-90 and SUP-12-90. Lether Investments

Mr. Sowers explained that this case was postponed at the February 4, 1991, Board of Supervisors' meeting at the applicant's request to allow time to respond to Board concerns.

Mr. Sowers stated that a letter had been received from Vernon Geddy, III, Esq., representative for Lether Investments, requesting postponement of the cases until the March 4, 1991, Board of Supervisors' meeting.

With Board consensus, Mr. Norment declared postponement until March 4, 1991, when all Board members would be present.

G. PUBLIC COMMENT

1. Mr. Gene Farley, P.O. Box 430, Toano, expressed thanks to the Board of Supervisors and Mr. Frank N. Hall, Virginia Department of Transportation for Upper County road improvements.

Mr. Farley stated that the drainage problems on Forge Road were a public safety issue and asked that proposed road improvements be funded by other than the Six-Year Secondary Road Plan. He asked for Board support, through matching State funds if available, for a preliminary set of drawings for Forge Road, which is No. 5 priority on the Six-Year Secondary Road Plan.

Mr. William Beck, P.O. Box 324, Toano, cited recent newspaper articles, and stated that approval of a concrete plant and high density housing would set a precedent for such other requests in Stonehouse district.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David B. Norman, County Administrator, recommended an executive session pursuant to Section 2.1-344(a)(1) of the Code of Virginia to consider a personnel matter, appointments of individuals to County Boards and/or Commissions.

Mr. Norman announced an Economic Development work session immediately following the James City Service Authority meeting.

I. BOARD REQUESTS AND DIRECTIVES

Mr. Norment complimented staff and specifically Mr. John Horne, for conducting the meeting at a small community gathering with Colonial Williamsburg at Carter's Grove to review preliminary development ideas of the Locust Grove site.

Mr. Norment expressed Board appreciation to the County Attorney's office and Wetlands Board for their efforts in resolving the recent wetlands violation.

Mr. Norment made a motion to recess for a James City Service Authority meeting at 2:07 p.m.

On a roll call, the vote was: AYE: Taylor, Edwards, Knudson, Norment (4). NAY: (0).

Mr. Norment reconvened the Board at 2:42 p.m., and immediately recessed the Board for a work session with Economic Development.

Mr. Keith Taylor, Economic Development Coordinator, and Mr. John Horne, Manager, Development Management presented a video entitled, "Peninsula Industrial Parks Overview." The remaining agenda items were Grove property overview, the Consultant's scope of work, project milestones calendar, and infrastructure needs.

After a brief discussion, Mr. Norment made a motion to convene into executive session for purposes stated by the County Administrator, at 3:28 p.m.

Mr. Norment declared the Board into open session at 3:45 p.m., and made a motion to approve the executive session resolution.

On a roll call, the vote was: AYE: Taylor, Edwards, Knudson, Norment (4). NAY: (0).

R E S O L U T I O N

MEETING DATE: February 19, 1991

CERTIFICATION OF EXECUTIVE MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge; (i) only public business matters lawfully exempted from

open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies; and, (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board.

Mr. Norment made a motion to appoint Susan McCleary to the Wetlands Board for a five-year term expiring February 19, 1996.

On a roll call, the vote was: AYE: Edwards, Knudson, Norment (3).
NAY: Taylor (1).

Mr. Taylor made a motion to adjourn.

On a roll call, the vote was: AYE: Taylor, Edwards, Knudson, Norment (4). NAY: (0).

The Board adjourned at 3:46 p.m.



David B. Norman
Clerk to the Board

1667w

LEASE AGREEMENT

THIS LEASE AGREEMENT, dated February 6 19 91 by and between BELLMAWR TRUST

office at Virginia Beach, Virginia hereinafter referred to as the LESSOR, and THE CITY OF WILLIAMSBURG/JAMES CITY COUNTY hereinafter referred to as the LESSEE.

WITNESSETH:

The Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor the following described property, hereinafter referred to as the "Leased Premises":

Space designated as Suite 200 containing approximately 3,082 square feet and being located at the following address: 300 McLaws Circle, Williamsburg, VA 23185

State of Virginia, together with the appurtenances, including, without limitation, the right, in common with others, to use for the respective purposes for which they are intended, the lobbies, elevators, stairways, and other public and service portions of the stairways, and other public and service portions of the building which Lessee and invitees are permitted to use hereinafter collectively called "common areas."

1. TERM: This lease shall be for a term of five (5) years, commencing on April 1 19 91 and terminating on March 31 19 96 on the terms and conditions, as set forth herein. See attached Addendum Paragraph 1. "Term" of the District Court Service Unit *

2. USE: The leased premises are to be used for general office purposes Counseling Center

allowed and for no other purpose without prior written consent of Lessor. Lessee shall not use the leased premises for any unlawful purpose or so as to constitute a nuisance.

3. POSSESSION: The Lessor covenants and agrees to have the leased premises completed and ready for possession on or before the above commencement date, barring strikes, insurrections, Acts of God and other casualties or unforeseen events beyond the control of the Lessor. Lessee agrees to accept possession of said leased premises within ten (10) days from receipt of notice by the Lessor of completion. The Lessee, at the expiration of the terms, shall deliver up the leased premises in good repair and conditions, damages beyond the control of the Lessee, reasonable use, ordinary decay, wear and tear, excepted.

4. RENT: Lessee hereby covenants and agrees to pay, during the term hereof, to the Lessor, in advance and beginning on the commencement date of this lease and on the first day of each and every month thereafter a base rent of \$ See attached Addendum Paragraph 2. "Rent Schedule"

Rent shall be paid to Lessor at Drucker & Falk P.O. Box 96 Newport News, VA 23607

If Lessee's possession commences on other than the first day of the month, Lessee shall occupy the leased premises under the terms, conditions, and provisions of this Lease and the prorate portion of the monthly rent for said month shall be paid, and the term of this Lease shall commence on the first day of the month following that in which possession is given.

See attached Addendum Paragraph 3. "Renewal Option"

5. RENEWAL: This Lease shall stand renewed for successive additional terms of one (1) year(s) unless either party shall not less than ninety days prior to the end of the term hereof, or not less than ninety days prior to the end of any renewal term, by written notice to the other party, terminate the same. Failure of either of the parties to serve such written notice of termination on the other party shall extend the term for an additional period for one (1) year and obligate the Lessee to all of the terms and conditions hereof for such renewal term, including the obligation to pay rent therefor, as set forth herein.

See attached Addendum Paragraph 4. "Rent Adjustment"

6. RENT ADJUSTMENT: The monthly base rent for each twelve month period subsequent to the first complete twelve month period occurring during the term of this Lease or any renewal thereof shall be computed by multiplying the base rent, as set forth in Paragraph Four, by a fraction whose numerator shall be the Consumer Price Index (U.S. City Average - (1967 = 100) - All Items, Bureau of Labor Statistics of the United States Department of Labor), for the third month prior to the respective anniversary date and whose denominator shall be said Consumer Price Index Revised Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (All Items) for the month of the commencement date of this Lease, provided that in no event shall such base rent be less than the base rent stated in Paragraph Four. The Lessor shall notify the Lessee of the adjusted monthly base rent, in writing, prior to the respective anniversary date if such rent adjustment occurs. The Lessee agrees to pay the adjusted monthly base rent, together with any applicable taxes as set forth in Paragraph Seven.

EST

on the first day of each and every month for the ~~term~~ ~~allowing twelve month period or for these months remaining in said period after notification by Lessor~~ ~~however, the Lessee shall not be liable for rent adjustments for any portion of any twelve month period prior to notification by Lessor.~~ 63

7. **SALES AND USE TAX:** The Lessee hereby covenants and agrees to pay monthly, as additional rent, any sales, use or other tax, excluding State and/or Federal Income Tax, now or hereafter imposed upon rents by the United States of America, the State, or any political subdivisions thereof, to the Lessor, notwithstanding the fact that such statute, ordinance or enactment imposing the same may endeavor to impose the tax on the Lessor.

8. **NOTICES:** All notices required to be sent by each party to the other shall be given by registered or certified mail, with return receipt requested, and the date of the delivery of such notice shall be the date of the notice. The only admissible evidence that notice has been given shall be the U.S. Postal Service Return Receipt; excepting, however, that in the event the acceptance of the notice is refused, then in such event, the giving of the notice shall be the date of the attempted delivery and the return of the notice to the sender by the U.S. Postal Service shall be conclusive evidence that notice has been given.

9. **WAIVER OF SUBROGATION:** Lessor and Lessee hereby agree that all insurance policies which each of them shall carry to insure the demised premises and the contents therein against casualty loss, and all liability policies which they shall carry pertaining to the use and occupancy of the demised premises shall contain waivers of the right of subrogation against Lessor and Lessee herein, their heirs, administrators, successors, and assigns.

10. **SIGNS:** No sign, advertisement or notice shall be inscribed, painted or affixed by Lessee on any part of the outside or inside of the Building, except on the entrance to the premises, and such door signs shall be such size, color and style as Lessor shall approve. Lessor shall designate who shall do such work, but it shall be done at the expense of Lessee. Lessor may allow ground floor tenants' signs on the exterior of the building, subject to Lessor's approval.

11. **SECURITY DEPOSIT:** ~~The Lessee, concurrently with the execution of this Lease, has deposited the sum of \$ _____ the receipt being hereby acknowledged, which sum shall be retained by the Lessor as security for the payment by the Lessee of the rent herein agreed to be paid and for the faithful performance of the covenants of this Lease. This deposit is to be held by the Lessor during the term hereof in an account separate from Lessor's funds, and shall not be used by Lessor except for the purpose herein-stated. Interest at the rate of four (4%) percent per annum shall be added to and be treated in the same manner as the original security deposit. If at any time the Lessee shall be in default in any of the provisions of this Lease, the Lessor shall have the right to use said deposit, or so much thereof as may be necessary in payment of any rent in default as aforesaid and/or in payment of any expense incurred by the Lessor in and about the curing of any default by said Lessee, and/or in payment of any damage incurred by the Lessor by reason of such default of the Lessee, or at the Lessor's option, the same may be retained by the Lessor in liquidation of part of the damages suffered by the Lessor by reason of the default of the Lessee. In the event that said deposit shall not be utilized for any such purpose, then such deposit shall be returned to the Lessee not later than sixty (60) days after termination of this lease agreement.~~

12. **DESTRUCTION OF PREMISES:**

(A) If the leased premises are totally destroyed by fire or other casualties, both the Lessor and Lessee shall have the option of terminating this Lease or any renewal thereof, upon giving written notice at any time within thirty (30) days from the date of such destruction, and, if the Lease be so terminated, all rent shall cease as of the date of such destruction and any prepaid rent shall be refunded.

(B) If such leased premises are partially damaged by fire or other casualty, or totally destroyed thereby and neither party elects to terminate this Lease within the provisions of Paragraph (A) above, or (C) below, then the Lessor agrees, at Lessor's sole cost and expense, to restore the leased premises to a kind and quality substantially similar to that immediately prior to such destruction or damage. Said restoration shall be commenced within a reasonable time and completed without delay on the part of the Lessor and in any event shall be accomplished within one hundred fifty (150) days from the date of the fire or other casualty. In such case, all rents paid in advance shall be proportioned as of the date of damage or destruction and all rent thereafter accruing shall be equitably and proportionately suspended and adjusted according to the nature and extent of the destruction or damage, pending completion or rebuilding, restoration or repair, except that in the event the destruction or damage is so extensive as to make it unfeasible for the Lessee to conduct Lessee's business on the leased premises, the rent shall be completely abated until the leased premises are restored by the Lessor or until the Lessee resumes use and occupancy of the leased premises, whichever shall first occur. The Lessor shall not be liable for any inconvenience or interruption of business of the Lessee occasioned by fire or other casualty.

(C) If the Lessor undertakes to restore, rebuild or repair the premises, and such restoration, rebuilding or repair is not accomplished within one hundred fifty (150) days, and such failure does not result from causes beyond the control of Lessor, the Lessee shall have the right to terminate this Lease by written notice to the Lessor within thirty (30) days after expiration of said one hundred fifty (150)-day period.

13. **SERVICES:** Lessor will furnish ordinary and customary janitorial and cleaning services, (Monday through Friday), reasonable electricity, not to exceed 50 watt hours per day per square foot. Lessor will furnish, upon the commencement of the term hereof, electric light bulbs for the lighting fixtures installed by it in the leased premises, and thereafter able electricity, not to exceed 50 watt hours per day per square foot. Lessor will furnish, upon the commencement of the term hereof, electric light bulbs for the lighting fixtures installed by it in the leased premises, and thereafter any necessary replacement of such bulbs shall be made by and at the expense of Lessee. Lessee shall not use any method of heating or cooling the demised premises other than that provided by Lessor. Lessor reserves the right to interrupt, curtail or suspend the services required to be furnished under this paragraph when the necessity or advisability therefore arises by reason of accident, emergency, mechanical breakdown, the requirement of any authority having jurisdiction, or for any other cause beyond the control of Lessor. In the event of interruption or suspension of any such services, Lessor shall use due diligence to restore such services with reasonable dispatch, but shall not have any suspension of any such service unless such interruption or suspension is due to Lessor's own willful act and no abatement or rent shall be allowed Lessee as a result thereof, not shall this lease or any of Lessor's obligations be in any way affected thereby.

14. **ALTERATIONS:** Lessee covenants that it will not make any alterations, additions or improvements to the leased premises without Lessor's prior written consent, and all such alterations, additions, and improvements shall become the property of the Lessor and shall be surrendered along with the leased premises at the expiration or earlier termination of this Lease. Or, upon notice of Lessor, Lessee must remove said alterations, additions or improvements and repair any and all damages.

15. **LESSOR'S RIGHT TO INSPECT AND DISPLAY:** The Lessor shall have the right, at reasonable times during the term of this Lease, to enter the leased premises for the purpose of examining or inspecting same and of making such repairs or alterations therein as the Lessor shall deem necessary. The Lessor shall also have the right to enter the leased premises at all reasonable hours for the purpose of displaying said premises to prospective tenants within ninety (90) days prior to the termination of this Lease.

16. **CONDEMNATION:** If, during the term of this Lease or any renewal thereof, the whole of the leased premises, or such portion thereof as will make the leased premises unusable for the purpose leased, be condemned by public authority for public use, then, in either event, the term hereby granted shall cease and come to an end as of the day the event last occurs. Upon such occurrence the rent shall be proportioned as of such date and any prepaid rent shall be returned to the Lessee. The Lessor shall be entitled to the entire award for such taking, except for any statutory claim of the Lessee for injury, damage or destruction of Lessee's business accomplished by such taking. If a portion of the leased premises is taken or condemned by public authority for public use as not to make the remaining portion of the leased premises unusable for the purposes leased, this Lease will not be terminated but shall continue. In such case, the rent shall be equitably and fairly reduced or abated for the remainder of the term in proportion to the amount of the leased premises taken. In no event shall the Lessor be liable to the Lessee for any business interruption, diminution in use or for the value of any unexpired term of this Lease.

Handwritten signature

64

consent of the Lessor, which consent the Lessee shall not be unreasonably withheld... Such assignment shall in no way relieve the Lessee from any obligations hereunder for the performance of the conditions, covenants and provisions of this Lease. In no event shall this Lease be assigned or be assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise, and in no event shall this Lease or any rights or privileges hereunder be an asset of Lessee under any bankruptcy, insolvency or reorganization proceedings. Lessor shall not be liable nor shall the leased premises be subject to any mechanics, materials, or other type liens and Lessee shall keep the premises and property in which the leased premises are situated free from any such liens and shall indemnify Lessor against and satisfy any such liens which may obtain because of Acts of Lessee notwithstanding the foregoing provisions.

18. **HOLDOVER:** It is further covenanted and agreed that if the Lessee, any assignee or sublessee shall continue to occupy the leased premises after the termination of this Lease (including a termination by notice), without prior written consent of the Lessor, such tenancy shall be Tenancy at Sufferance. Acceptance by the Lessor of rent after such termination shall not constitute a renewal of this Lease or a consent to such occupancy, nor shall it waive Lessor's right of reentry or any other right contained herein.

19. **SUCCESSORS AND ASSIGNS:** This Lease shall bind and inure to the benefit of the successors, assigns, heirs, executors, administrators and legal representatives of the parties hereto.

20. **WAIVER:** No waiver or any covenant or condition of this Lease by either party shall be deemed to imply or constitute a further waiver of the same covenant or condition of any other covenant or condition of this Lease.

21. **SUBORDINATION:** This Lease shall be subject and subordinated at all times to the liens of any mortgages or deeds of trust in any amount or amounts whatsoever now existing or hereafter encumbering the leased premises, without the necessity of having further instruments executed by the Lessee to affect such subordination. Notwithstanding the foregoing, Lessee covenants and agrees to execute and deliver upon demand, such further instruments evidencing such subordination of this Lease to such liens of any such mortgages or deeds of trust as may be requested by Lessor. So long as the Lessee hereunder shall pay the rent reserved and comply with, abide by and discharge the terms, conditions, covenants and obligations on its part, to be kept and performed herein and shall attorn to any successor in title, notwithstanding the foregoing, the peaceable possession of the Lessee in and to the leased premises for the term of this Lease, shall not be disturbed, in the event of the foreclosure of any such mortgage or deed of trust, by the purchaser at such foreclosure sale or such purchaser's successor in title.

22. **INDEMNIFICATION:** The Lessor shall not be liable for any damage or injury to any person or property, whether it be the person or property of the Lessee, the Lessee's employees, agents, guests, invitees or otherwise by reason of Lessee's occupancy of the leased premises or because of fire, flood, windstorm, Acts of God or for any other reason. The Lessee agrees to indemnify and save harmless the Lessor from and against any and all loss, damage, claim, demand, liability or expense by reason of damage to person or property which may arise or be claimed to have arisen as a result of the occupancy or use of said leased premises by the Lessee or by reason thereof or in connection therewith, or in any way arising on account of any injury or damage caused to any person or property on or in the leased premises providing, however, that Lessee shall not indemnify as to the loss or damage due to fault of Lessor. *See attached Addendum Paragraph 5. "Indemnification"

23. **CONSTRUCTION OF LANGUAGE:** The terms lease, lease agreement or agreement shall be inclusive of each other, also to include renewals, extensions or modifications of the Lease. Words of any gender used in this Lease shall be held to include any other gender, and words in the singular shall be held to include the plural and the plural to include the singular, when the sense requires. The paragraph headings and titles are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

24. **DEFAULT:** In the event the Lessee shall default in the payment of rent or any other sums payable by the Lessee herein, and such default shall continue for a period of ten (10) days, or if the Lessee shall default in the performance of any other covenants or agreements of this Lease and such default shall continue for thirty (30) days after written notice thereof, or if the Lessee should become bankrupt or insolvent or any debtor proceedings be taken by or against the Lessee, then and in addition to any and all other legal remedies and rights, the Lessor may declare the entire balance of the rent for the remainder of the term to be due and payable and may collect the same by distress or otherwise and Lessor shall have a lien on the personal property of the Lessee which is located in the leased premises and in order to protect its security interest in the said property Lessor may, without first obtaining a distress warrant, lock up the leased premises in order to protect said interest in the secured property, or the Lessor may terminate this lease and retake possession of the leased premises, or enter the leased premises and re-let the same without termination, in which later event the Lessee covenants and agrees to pay any deficiency after Lessee is credited with the rent thereby obtained less all repairs and expenses (including the expenses of obtaining possession), or the Lessor may resort to any two or more of such remedies or rights, and adoption of one or more such remedies or rights shall not necessarily prevent the enforcement of other concurrently or thereafter.

The Lessee also covenants and agrees to pay reasonable attorney's fees and costs and expenses of the Lessor, including court costs, if the Lessor employs an attorney to collect rent or enforce other rights of the Lessor herein in event of any breach, as aforesaid, and the same shall be payable regardless of whether collection or enforcement is affected by suit or otherwise. Lessee shall pay a late charge of fifteen (15.00) dollars on any rent installment or additional charge when paid more than ten (10) days after due date thereof. equal to six (6%) percent

25. **LESSEE REPAIRS:** Lessee covenants that during the term it will take care of the leased premises and the fixtures and equipment therein and, at its sole cost and expense, keep the same in good condition and repair throughout the term, making such replacements as may be necessary, and at the expiration of the term remove any installations or improvements it made which Lessor wishes removed, and deliver up the leased premises in as good order and condition as the same were in at the time possession thereof was delivered to Lessee, ordinary wear and tear and damage caused by fire or other unavoidable casualty excepted. All installations, repairs, restorations and replacements shall be equal in quality to the original work.

26. **LESSOR'S REPAIRS:** Lessor shall, at its own cost and expense, make such repairs and alterations to and replacements of the Common Areas and the structure, roof and exterior, of the Building as shall be reasonably necessary for Lessee's occupancy of, and conduct of business in, the leased premises and use of the Common Areas, unless the need for such repairs is occasioned by the negligent or willful act of Lessee, its agents, employees or invitees, in which event such repairs shall likewise be made by Lessor, but shall be charged to Lessee. Anything in the foregoing to the contrary notwithstanding Lessor shall have no liability for damage or injury to person or property as a result of its failure to make any such repair or replacement unless, within a reasonable time after being notified by Lessee of the need therefore, Lessor shall have failed to make such repair or replacement and such failure shall not have been due to any cause beyond Lessor's control, including without limitation, strikes, inability to obtain materials or equipment. Lessor, its agents, employees and contractors, shall have the right, at any time, and from time to time, to enter the leased premises for the purpose of inspection or for the purpose of making any of the aforesaid repairs or replacements. Lessee shall not be entitled to any reduction in rent, or any claim for damages, by reason of any inconveniences, annoyance, injury to business or loss of natural light or ventilation arising out of any repairs, alterations, or replacements made by Lessor, pursuant to this Paragraph. See attached Addendum Paragraph 6. "Lessor's Repairs"

27. **LANDLORD'S LIABILITY:** Lessor or Agent shall not be responsible for any latent defect in, deterioration of, or change in the condition of, the building or leased premises, or for any damage resulting therefrom, whether to person or property. Lessor, or Agent, shall not be liable for loss of any property of Lessee, (its agents, servants, employees or invitees) as a result of theft or misplacement. Lessor, or Agent, shall not be liable for any death, injury, loss or damage to persons or property howsoever caused, whether (without limitation) caused by or resulting from falling plaster, dampness, overflow or leakage upon or into the building or leased premises of water, rain, snow, steam, gas or electricity, or breakage, leakage or obstruction of pipes or other facilities, unless such death, injury, loss or damage shall be caused by the negligence or willful act of Lessor, or Agent. The enumeration, in this Paragraph, of causes for which Lessor, or Agent, shall not be liable is in no way to be construed as imposing liability on Lessor, or Agent, in respect of causes not enumerated or as an increase of any of the Lessor's, or Agent's, obligations under this Lease.

ESTB 9/15/19 DM

28. ADDITIONAL CHARGES: In the event that state taxes assessed against the building, grounds parking areas appurtenant to the building insurance premiums in connection with the same and/or the rates for janitorial service, utilities and maintenance of the building and grounds, parking areas appurtenant to the building and any other operating expenses are increased during any lease year of the term hereof, Lessee covenants to pay to Lessor, as additional rent during the following year, a proportionate part of such increase or increases. Lessee's proportionate part of such increase shall be determined by dividing the total number of square feet in the leased premises by the total number of rentable square feet of floor space in the building. Such additional charges shall be paid by Lessee to Lessor in equal monthly installments at the time and in the same manner as the rent for the leased premises is paid. Should another building(s) be constructed by Lessor near this building and the parking areas which are appurtenant to each building be used jointly by the tenants of both (all) buildings, then the increase in real estate taxes and other expenses mentioned herein which are attributable to said parking areas shall be equitably apportioned among the tenants of both (all) buildings.

29. RULES AND REGULATIONS: Lessee covenants and agrees that he will fully comply with the Rules and Regulations in regard to the building, wherein the said demised premises are located, printed upon insert of this Lease and marked Schedule "A," and to comply with such alterations, additions and modifications thereof as may from time-to-time to be made by Lessor. Such alterations, additions and modifications shall be made a part of this Lease with the same effect as though written herein, and Lessee covenants and agrees to all Rules and Regulations and that all alterations, additions and modifications thereof shall be faithfully observed by the Lessee, the employees of the Lessee and all persons invited by the Lessee into said building.

30. ATTACHMENTS: Coldwell Banker Commercial Real Estate Services, a licensed Real Estate Broker,
*Upon execution of this Lease by both parties, Lessor shall pay to "SCHEDULE "A"—RULES AND REGULATIONS (ATTACHED) a fee set forth in a separate Agreement.
Addendum dated February 6, 1991 attached hereto and made part of this Lease Agreement.

SEE YOUR ATTORNEY - THIS LEASE IS TO BE GIVEN TO YOUR ATTORNEY FOR REVIEW AND APPROVAL BEFORE YOU SIGN IT. BECAUSE EACH LEASE TRANSACTION IS UNIQUE, AND THE BUSINESS AND LEGAL CONCERNS OF EACH PARTY ARE UNIQUE, COLDWELL BANKER CANNOT AND DOES NOT MAKE ANY REPRESENTATION OR RECOMMENDATION CONCERNING THE LEGAL EFFECT, LEGAL SUFFICIENCY, OR TAX CONSEQUENCES OF THIS LEASE. THESE ARE QUESTIONS FOR YOUR ATTORNEY AND FINANCIAL ADVISORS. IN ANY REAL ESTATE TRANSACTION IT IS RECOMMENDED THAT YOU CONSULT WITH A PROFESSIONAL, SUCH AS A CIVIL ENGINEER, INDUSTRIAL HYGIENIST OR OTHER PERSON WITH EXPERIENCE IN EVALUATING THE CONDITION OF THE PROPERTY, INCLUDING THE POSSIBLE PRESENCE OF ASBESTOS, HAZARDOUS MATERIALS AND UNDERGROUND STORAGE TANKS.

cf
1991

The parties hereto have executed this Lease at the place and on the dates specified immediately adjacent to their respective signatures.

EXECUTED AT:

(City and State)

ON: _____
(Date)

ADDRESS: _____

BELLMAR TRUST

(Company Name)

BY: Edward F. Sproat, Jr. 2/8/91
Edward F. Sproat, Jr., Trustee

BY: _____
"LESSOR"

EXECUTED AT:

(City and State)

ON: _____
(Date)

ADDRESS: _____

THE CITY OF WILLIAMSBURG/
JAMES CITY COUNTY

(Company Name)

BY: [Signature]

BY: [Signature]
"LESSEE"

SCHEDULE "A"
RULES AND REGULATIONS

It is the Lessor's intention and purpose to operate an outstanding office building. The Lessor will strive at all times to render prompt and efficient service and to maintain the property in the best possible condition. In an effort to maintain the property, the Lessor asks your cooperation in observing the following rules. Any expense incurred by the management as a result of violation of these rules will be assessed against the Lessee and shall constitute default by Lessee. Lessee shall promptly notify the management of any needed repairs to any of the equipment or fixtures.

(A) The Lessee shall comply with all the rules and regulations of the Board of Fire Underwriters, officers or boards of the city, county or state having jurisdiction over the leased premises, and with all ordinances and regulations of governmental authorities wherein the leased premises are located, at Lessee's sole cost and expense, but only insofar as any of such rules, ordinances and regulations relate to the Lessee's use of the leased premises. The obligation to comply in all cases where such rules, regulations and require repairs, alterations, changes or additions to the building (including the leased premises) or building equipment, or any part of either, shall be the Lessor's responsibility, and Lessor covenants and agrees promptly to comply with all such rules, regulations and ordinances.

(B) Lessee shall turn off all lights and close and lock all corridor doors when the premises are not in use.

(C) The exterior of all drapes installed by Lessee shall be lined with white material. All blinds and drapes are to be approved by Lessor. Blinds must be left in the fully extended position at all times.

(D) No additional locks shall be placed upon any doors of the premises without prior approval from the Lessor. Lessor shall furnish to Lessee keys (3) to the premises, and any additional keys shall be furnished at the cost and expense of Lessee. Upon the expiration or earlier termination of this lease, Lessee shall surrender to Lessor all keys to the premises. All duplicate key and lockset repairs/reset requests shall be made to the Lessor.

(E) Lessee and their employees are encouraged to park as far away from the entrances as possible. This will enable customers and clients to enter and conduct business without undue inconvenience. Certain spaces have been set aside as Visitor Parking Spaces and Handicapped Parking. These spaces will not be utilized for personal vehicles of Lessee or employees of Lessee.

(F) No antennas will be installed on the exterior of the office building by the Lessee, or their agents, without the written approval of the Lessor. If such antennas are installed, they shall be removed by Lessor at the Lessee's expense.

(G) Lessee shall not install, attach or bring into the premises any equipment, instrument, duct, refrigerator, air conditioner or other appliance which will require the use of electrical current or water without first obtaining written permission of Lessor.

(H) The sidewalks, entrances, passages, hallways, elevators, and staircases shall not be obstructed or used for any other purpose than ingress and egress.

(I) Lessee shall not enter any normally locked space. High voltages and delicate machinery are present in the spaces. The roof of the building is considered a locked space and entrance to it is not permitted.

(J) Your building will be open during normal working hours, between 8:30 a.m. to 5:30 p.m., Monday through Friday. All other times, entry may be obtained by use of your suite key.

(K) Lessor shall have the right to prescribe the weight, position and manner of support of all safes. Safes, freight, furniture and other bulky matter shall be moved only at such times, by such persons, and in such manner, as shall be determined by Lessor's management agent. Lessee shall not place any object upon any floor of the building which will cause the floor load to exceed that which was designed for such floor or which is allowed by law.

(L) The property management department's office hours are 9:00 a.m. until 5:00 p.m., Monday through Friday. Please conduct your business with this department during these hours.

(M) The eating of food or the consumption of alcoholic beverages, in the hallways or common areas, is expressly prohibited.

(N) Lessee is required to provide evidence of insurance adequate to cover all Lessee liabilities as stipulated in Paragraph 22 (INDEMNIFICATION) of the Lease.

The Lessor reserves the right to make changes in these rules from time-to-time.

BELLMAWR TRUST

BY: Edward T. Spradley 2/8/91
Trustee LESSOR

THE CITY OF WILLIAMSBURG/
JAMES CITY COUNTY

BY: J. V. [Signature]

BY: [Signature]
"LESSEE"

BY AND BETWEEN BELLMAWR TRUST
AND THE CITY OF WILLIAMSBURG/JAMES CITY COUNTY
DATED DECEMBER 26, 1990

67

1. **TERM.** In addition to Article 1, if on June 1 of any lease year hereafter, either Lessee has not appropriated monies necessary for the coming lease year, then this Lease shall terminate as of 12:00 p.m., July 1 of the lease year then in force. In such event, Lessor shall have no claims against either Lessee for loss of rents due to early lease termination. Should no monies be appropriated, Lessee shall give twenty-five (25) days prior written notice Via Certified Mail to Lessor, with return receipt requested, of its intent to terminate said Lease.

2. **RENT SCHEDULE.** Lessee shall pay to Lessor base rent on the following schedule:

Year 1: (4/1/91/-3/31/92) \$2,311.50

Year 2: (4/1/92-3/31/93) \$2,439.92

Year 3: (4/1/93-3/31/94) \$2,561.91

Year 4: (4/1/94-3/31/95) \$2,690.01

Year 5: (4/1/95-3/31/96) \$2,824.51

3. **RENEWAL OPTION.** Lessee, at its option, shall be entitled to three (3) consecutive extensions of this Lease, to be exercised separately, each such extension to be for a period of one (1) year, and to be upon the same terms, covenants, and conditions of the Lease dated December 26, 1990. Each said extension shall be exercised by the Lessee giving ninety (90) days prior written notice to the expiration of the existing term, Via Certified Mail, return receipt requested.

4. **RENT ADJUSTMENT.** Per Paragraph 2 above, the base rent on all renewal options shall increase by four (4%) percent per year. Lessor shall notify Lessee of the adjusted monthly base rent in writing, prior to the respective anniversary date.

5. **INDEMNIFICATION.** Lessee's indemnification is limited to such damages as may be payable from time to time under the terms of such general liability insurance coverage as may be carried by such Lessee.

6. **LESSOR'S REPAIRS.** In addition to Article 26, Lessor shall be responsible for replacement of the heat pump unit serving the demised premises and any major component thereof unless such replacement is made necessary by the negligence or abuse by Lessee.

7. **COMPLIANCE WITH LAWS.**

A. Tenant shall not use or occupy, or suffer or permit any portion of the Premises to be used or occupied (a) in violation of any law, ordinance, order, rule, regulation, certificate of occupancy, or other governmental requirement or (b) for any purpose other than solely for use specified in Paragraph 2. Tenant shall comply with all laws, ordinances, orders, rules, regulations, certificates of occupancy and any other governmental requirements relating to the use, condition, repair or occupancy of the Premises, and all rules, orders, regulations and requirements of the board of fire underwriters or insurance service office, or any other similar body or entity having jurisdiction over the Premises.



Handwritten signature and date in a box.

ADDENDUM TO LEASE
BY AND BETWEEN BELLMAWR TRUST
AND THE CITY OF WILLIAMSBURG/JAMES CITY COUNTY
DATED DECEMBER 26, 1990

B. In addition to and not in limitation of the generality of the foregoing, the Premises shall be kept free of Hazardous Materials (as hereinafter defined) and shall not be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce, or process Hazardous Materials. Tenant shall not cause or permit, as a result of any intentional or unintentional act or omission, the installation of Hazardous Materials onto the Premises or suffer the presence of Hazardous Materials on the Premises. Tenant shall comply with and insure compliance by any subtenants with all applicable federal, state and local laws, ordinances, rules, regulations and other governmental requirements relating to Hazardous Materials and shall keep the Premises free and clear of any liens imposed pursuant to such laws, ordinances, rules and regulations. In the event that Tenant receives any notice from any governmental authority with respect to Hazardous Materials on, from, or affecting the Premises, Tenant shall promptly notify Landlord in writing. Tenant shall conduct and complete all investigations, studies, samplings, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials*~~on, from or affecting the Premises~~ in accordance with all applicable federal, state and local laws, ordinances, rules, regulations and other governmental requirements to the satisfaction of Landlord. *located within the leased premises.

Handwritten initials and scribbles.

C. For purposes of this Section, "Hazardous Materials" shall include, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, asbestos, or any other substance or material as defined by any federal, state or local environmental law, ordinance, rule, or regulation including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 9601 et seq.), and in the regulations adopted and publications promulgated pursuant thereto.

D. Landlord may assign its rights and benefits under this Section to any lender holding a mortgage against all or any portion of the Premises.

LESSOR: BELLMAWR TRUST

BY: Edward F. Spradley, Jr. 2/8/91
Trustee Date

LESSEE: THE CITY OF WILLIAMSBURG/JAMES CITY COUNTY

BY: J. W. Little _____
Date

BY: Daniel M. ... 2/21/91
Date