



TOWN OF OCCOQUAN

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314 Mill Street
PO BOX 195
Occoquan, VA 22125
(703) 491-1918
www.OccoquanVA.gov
info@occoquanva.gov

Occoquan Town Council Town Council Meeting March 16, 2021 | 7:00 p.m.

1. Call to Order
2. Consent Agenda
 - a. March 2, 2021 Meeting Minutes
3. Public Hearing
 - a. Public Hearing and Invitation to Bid on a Franchise for 200 Mill Street (Former Town Visitor Center)
4. Regular Business
 - a. Request to Accept a Bid and Award a Franchise for the Use of 200 Mill Street (Former Visitor Center)
5. Closed Session
6. Adjournment



OCCOQUAN TOWN COUNCIL
Meeting Minutes - DRAFT
Town Hall – 314 Mill Street, Occoquan, VA 22125
Tuesday, March 2, 2021
7:00 p.m.

Present: Mayor Earnie Porta; Vice Mayor Jenn Loges; Councilmembers Krys Bienia, Cindy Fithian (remotely), Laurie Holloway, and Eliot Perkins

Staff: Kirstyn Jovanovich, Town Manager/Interim Town Clerk; Adam Linn, Chief of Police; Manuel Casillas, Town Treasurer (remotely); Julie Little, Events and Community Development Director (remotely); Martin Crim, Town Attorney (remotely); Bruce Reese, Town Engineer (remotely)

1. CALL TO ORDER

Mayor Porta called the meeting to order at 7:00 p.m. Due to illness Councilmember Fithian participated remotely from home in accordance with Town ordinances.

2. PLEDGE OF ALLEGIANCE

3. CITIZENS TIME

Mayor Porta noted that speakers at Citizens Time have to come to the podium to speak and must be wearing a mask that covers their nose and mouth. No one spoke at Citizens Time.

4. CONSENT AGENDA

a. February 16, 2021 Meeting Minutes

Councilmember Perkins moved approval of the item on the Consent Agenda. Vice Mayor Loges seconded. Motion passed unanimously by voice vote.

5. REGULAR BUSINESS – Request to Postpone the Public Hearing on The Mill at Occoquan Special Use Permit Applications SE2018-01, SE2018-02, and SE2018-03

Mayor Porta asked for unanimous consent to move up on the agenda the regular business item concerning the public hearing for The Mill at Occoquan special use permit applications. There being no objection the item was moved up on the agenda.

Councilmember Perkins moved to postpone the public hearing to a date to be determined. Councilmember Fithian seconded. Motion passed unanimously by voice vote.

6. MAYOR'S REPORT

Mayor Porta noted that he is an appointee of the School Board to the latter's sustainability task force and that he believes such a task force would be beneficial for Occoquan in the future. Consequently, he plans to work with the Town Manager to develop a charter document for such a task force to be reviewed and approved by the Town Council some time after the budget process is completed.

Mayor Porta indicated that he had facilitated a Zoom meeting on Thursday, February 25, between members of the business community and The Mill at Occoquan applicant at the request of the parties. The meeting lasted approximately 3½ hours. He noted that all the business community

participants were patient and constructive. Additionally, he noted that he had spoken to members of the Merchants Guild by Zoom on March 2 shortly before the Town Council meeting. Among the major concerns expressed were those related to the potential competition posed by new businesses and the impact on existing businesses during active construction. Mayor Porta suggested that it was incumbent upon everyone on the Town Council to be clear about what things can (e.g. height and setback) and cannot be considered (e.g. competition to existing businesses) in evaluating projects over which the Council has some role. Additionally, he remarked that there continues to be a significant amount of misinformation on the Mill at Occoquan project being spread and a significant lack of clarity about the differences between “by-right” uses, special exceptions, and variances. Last, Mayor Porta noted that he became aware last week of one or more individuals making inaccurate, disparaging comments about members of the Planning Commission related to The Mill at Occoquan project. He indicated that such comments were without foundation and therefore unacceptable and that individuals engaging in such conduct should have no role on Town boards, commission, task forces, or other advisory bodies.

7. COUNCILMEMBER REPORTS

There were no reports by Councilmembers.

8. BOARDS AND COMMISSIONS

Vice Mayor Loges noted that she, like others, had received comments on the Mill at Occoquan project and encouraged people to continue to provide them as they saw fit. She noted, as well, that on February 25 she attended a meeting she had requested with the Town Manager and the Town Engineer to address some questions she had regarding the Mill at Occoquan project; she expressed her appreciation to Ms. Jovanovich and Mr. Reese for their time.

Councilmember Perkins reported that the Planning Commission had recently met and was now focusing on the update to the Comprehensive Plan. Each member of the body has been assigned responsibility for different aspects of the Plan. Additionally, members are also analyzing the proposed AlpineX project in Fairfax County and the North Woodbridge town center project and intend to develop some sort of briefing document for the Town Council. Last, the Planning Commission is also devoting attention to road, transportation, and other projects in the environs surrounding the Town.

ARB Chair Brenda Seefeldt reported on the most recent ARB meeting, noting that they approved a demolition request for a house on McKenzie Drive. She also noted that the ARB’s last meeting had included an informative presentation on infill projects from a Leesburg representative. Councilmember Fithian suggested that the individual make the presentation to the full Council. Councilmembers discussed at some length the relevance of such a presentation to the Town Council and whether or not it would be an appropriate time for such a presentation to be made before the full Council.

9. ADMINISTRATIVE REPORTS

a. Town Manager

The meeting agenda included a written report from the Town Manager. Ms. Jovanovich added that staff had been speaking with VDOT about the possibility of getting additional information

upon which the Town could make a decision regarding a potential change of traffic patterns on part of Commerce Street. Additionally, she reported on the status of the recently-implemented timed parking program in the business district. Last, she noted that staff would be meeting with relevant County officials regarding the new visitors kiosk.

Councilmember Bienia expressed her appreciation for how quickly staff had investigated the Commerce Street issue with VDOT.

Vice Mayor Loges asked for clarification on VDOT's striping plan. She also asked for a status update on any remaining CARES Act Funds. Ms. Jovanovich responded that staff was reviewing its earlier plan to purchase generators and would be coming forward to Council with information once their review was complete. Vice Mayor Loges also asked for clarification regarding private property owners who have not complied with snow removal requirements. Ms. Jovanovich indicated that staff has traditionally not been strict about this, recognizing the difficulty of compliance for some individuals, the absentee nature of some property owners, and the traditional reliance on volunteers to help out. Last, Vice Mayor Loges asked about several properties that have changed their use in a manner inconsistent with zoning designations. Ms. Jovanovich indicated that staff is aware of these and is in the process of reviewing them and taking appropriate action.

Councilmember Holloway thanked staff for their prompt work in investigating the Commerce Street issue with VDOT. Councilmember Perkins expressed similar appreciation.

Mayor Porta asked for unanimous consent to add to the agenda a vote on the VDOT striping plan, expressing a desire to go forward with a plan that called for no change to the traffic pattern on Commerce Street, but with recognition that he would be calling for a vote on that issue once the budget process was completed. There being no objection the item was added to the agenda. Vice Mayor Loges moved submission of a striping plan that currently retains one-way traffic on Commerce Street. Councilmember Holloway seconded. The motion passed unanimously by voice vote.

Mayor Porta confirmed with Ms. Jovanovich that staff is still working to bring the properties on Center Lane between Union and Ellicott Streets into compliance. He also noted that her report shows that the Police Department staff continue to donate a great deal of volunteer time to the Town and that the Public Works staff has completed an impressive number of projects. Accordingly, he request that Ms. Jovanovich and Chief Linn pass along Council's appreciation to the relevant staff.

Councilmember Holloway mentioned her interest in encouraging county and state elected officials to continue to advocate for solutions to Occoquan's traffic woes that are created by conditions outside of Town. Councilmember Perkins echoed those sentiments.

b. Town Treasurer's Report

Ms. Jovanovich provided a written Treasurer's report. Mayor Porta noted that revenues and expenses appear to be tracking expectations. There were no questions.

c. Town Attorney

The Town Attorney presented a written report and solicited questions.

10. OTHER BUSINESS

Mayor Porta indicated that earlier in the day ParkMobile had responded that they had incorporated the Town's requested changes into the agreement with the Town regarding app-based paid parking at Ebenezer Baptist Church. He asked for unanimous consent to add to the agenda authorization to sign the contract. There was no objection so the item was added.

Councilmember Holloway moved to authorize the Mayor to execute the agreement with ParkMobile upon review by the Town Attorney. Councilmembers Perkins seconded.

During discussion Councilmember Perkins asked the Mayor to refresh the Council and the public on the relevance of this agreement. In response Mayor Porta noted that it was part of the 3-part parking management initiative being pursued by the Town. This initiative involves: (1) timed parking to make more efficient use of existing parking inventory, (2) pursuing construction of a parking facility to increase the inventory of available parking, and (3) partnering with private property owners who have unused capacity to make their capacity available for app-based, paid parking. The agreement with Ebenezer Baptist Church would make 22 spaces available for paid parking.

Upon the close of discussion the motion passed unanimously by voice vote.

11. CLOSED SESSION

Vice Mayor Loges moved that the Council convene in closed session to discuss as permitted by Virginia Code § 2.2-3711(A)(3) a matter involving disposition of publicly held real property specifically involving the 200 Mill Street (formerly the Visitors Center), because discussion in an open meeting would adversely affect the Town's bargaining position. Seconded by Councilmember Bienia. Motion passed unanimously by voice vote.

The Council went into closed session at 7:58 p.m.
The Council came out of closed session at 8:13 p.m.

Vice Mayor Loges moved to certify that, in the closed session just concluded, nothing was discussed except the matter or matters (1) specifically identified in the motion to convene in closed session and (2) lawfully permitted to be discussed in a closed session under the provisions of the Virginia Freedom of Information Act as cited in that motion. Seconded by Councilmember Holloway.

Ayes: Vice Mayor Loges, Councilmember Bienia, Councilmember Fithian, Councilmember Holloway and Councilmember Perkins, by roll call vote.

Nays: None.

12. ADJOURNMENT

The meeting was adjourned at 8:14 p.m.

Town Clerk



TOWN OF OCCOQUAN TOWN COUNCIL MEETING

Agenda Communication

3. Public Hearings	Meeting Date: March 16, 2021
3A: Public Hearing and Invitation to Bid on a Franchise for 200 Mill Street (former Town Visitor Center)	

Attachments:

- a. Franchise Ordinance
- b. Draft Lease
- c. Public Hearing Ad

Submitted by: Kirstyn Jovanovich
Town Manager

Explanation and Summary:

This is a public hearing on a franchise ordinance and lease to permit use of the building and property at 200 Mill Street for a term of five years with one renewal term of five years and a right of first refusal. The Town Council invites public comments and bids thereon.

All bids must be submitted in writing and delivered to Town Council no later than 7:00 p.m. on March 16, 2021, at 314 Mill Street, Occoquan, VA 22125.

If more than one bid is received, the Town Council may refer them to the Town Manager for a recommendation based on the interests of the Town. In addition, the Town Council may make other investigations of bidders as it sees fit. The Town reserves the right to reject any and all bids.

Staff Recommendation: Recommend to close the public hearing.

Proposed/Suggested Motion(s):

“I move to close the public hearing.”

OR

“I move to continue the public hearing to MEETING DATE.”

OR

Other action the Town Council deems appropriate.

ORDINANCE # O-2021-XX

AN UNCODIFIED ORDINANCE GRANTING A FRANCHISE FOR THE TERM AND UPON THE CONDITIONS STATED IN THE ACCOMPANYING LEASE TO OCCUPY AND USE TOWN-OWNED PROPERTY LOCATED AT 200 MILL STREET IN THE TOWN OF OCCOQUAN, VIRGINIA, FOR COMMERCIAL USE

WHEREAS, the Town of Occoquan, Virginia (“the Town”), owns a building and associated property known as 200 Mill Street, previously used as a Visitor Center under a lease to Prince William County; and

WHEREAS, The Town has the authority to grant franchises and other authorizations for the use and occupancy of the public property of the Town, after due advertisement and review of bids as provided in Sections 15.2-2100 through 15.2-2102 of the Code of Virginia; and

WHEREAS, the Town authorized and conducted a public hearing prior to approving the franchise pursuant to Section 15.2-1800 of the Code of Virginia; and

WHEREAS, the Town intends to exercise, to the fullest extent permitted by applicable law the power to grant a franchise to lease the building and associated property located at 200 Mill Street for the term and on the conditions listed in the attached Draft Lease Agreement; and

WHEREAS, the Town has received bids from interested parties for grant of the franchise to lease the Visitor Center.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Occoquan, Virginia, hereinafter referred to as the “Town Council,” meeting in regular session this ____ day of _____, 2021, that the Town Council grants a franchise to _____ (hereinafter, “Grantee”) as follows:

1. Grant of Franchise. That the right (the “Franchise”) is hereby granted by the Town of Occoquan (hereinafter the “Town”) unto Grantee, its successors and assigns, for the term and subject to the conditions and limitations stated in the Draft Lease Agreement, to use the building and property located at 200 Mill Street for commercial purposes.

2. Completion of Draft Lease Agreement. The Town Manager is directed to fill in the blanks on the first page of the Draft Lease Agreement consistent with the bid accepted by the Town Council, to remove the “draft” designation, and to execute the finalized Lease Agreement on behalf of the Town after the Grantee has executed it.

3. Bond: The Grantee shall execute a bond with security satisfactory to the Town Attorney in the amount of Seven Thousand Five Hundred Dollars (\$7,500) to guarantee the operation and maintenance of the building and property located at 200 Mill Street in accordance with applicable law and the terms of the Lease Agreement between the Town and Grantee.

4. Effective Date: This Ordinance shall be in force from its passage.

BY ORDER OF THE TOWN COUNCIL

Meeting Date: XXX
Town Council Meeting
Ord. No. O-2021-XX

RE: An Uncodified Ordinance Granting a Franchise for the Term and Upon the Conditions Stated in the Accompanying Lease to Occupy and Use Town-Owned Property Located at 200 Mill Street In The Town Of Occoquan, Virginia, For Commercial Use

MOTION:
SECOND:
ACTION:

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

CERTIFIED COPY

Interim Town Clerk

DRAFT
LEASE AGREEMENT

THIS LEASE AGREEMENT (the “*Lease*”) is made and entered into as of the ____ day of _____, 2021, by and between **TOWN OF OCCOQUAN**, a municipal corporation of the Commonwealth of Virginia (as the “*Landlord*”) and _____ a Virginia limited liability company (as the “*Tenant*”), and is made and entered into pursuant to Section 15.2-2100 of the Code of Virginia, as amended.

1. *Defined Terms.* The following basic and defined terms are hereby incorporated into this Lease by reference (collectively, the “*Basic Lease Terms*”):

Landlord’s Mailing Address:	Occoquan Town Hall PO Box 195 Occoquan, Virginia 22125
Landlord’s Physical Address:	314 Mill Street Occoquan, Virginia 22125
Tenant’s Mailing Address:	
Demised Premises:	200 Mill Street Occoquan, VA 22125
Leasable Square Footage:	
Commencement Date:	March 17, 2021
Rent Commencement Date:	Lease Commencement Date
Lease Term:	Initial term five years; one five-year extension at Tenant’s option
Expiration Date:	
Rent:	\$7,500 (seven thousand five hundred dollars) per year, payable annually on May 1, subject to credit for meals tax actually paid to Town of Occoquan as provided in Section 4.D. of this Lease
Additional Rent:	
Rent Escalation:	3% per year
Security Deposit:	Bond per Franchise Ordinance
Use:	
Delivery of Premises:	Upon Lease Execution
Delivery Date:	Upon Lease Execution

2. Demised Premises.

Landlord does hereby lease to Tenant and Tenant does hereby lease from Landlord, upon the following terms and conditions, the Demised Premises.

The Tenant is taking the Demised Premises in its “AS IS” and “WHERE-IS” condition. Tenant has made its own inspection of the Demised Premises and is not relying on any representations of Landlord. Unless otherwise expressly provided in this Lease to the contrary, Landlord is making no representations or warranties concerning the conditions of the Demised Premises or its suitability for Tenant’s intended use.

3. Term.

A. The Lease Term shall commence on the Rent Commencement Date and shall continue for the number of months (and/or year(s)) defined in the Basic Lease Terms. The first “**Lease Year**” during the term hereof shall be the period commencing on the Rent Commencement Date, and shall terminate twelve (12) full calendar months thereafter. Each subsequent Lease Year during the term hereof shall commence on the day immediately following the last day of the preceding Lease Year, and shall continue for a period of twelve (12) full calendar months, except that the last Lease Year during the term hereof shall terminate on the day that this Lease expires or is otherwise terminated.

B. Landlord shall deliver to Tenant possession of the Demised Premises on or before the Delivery Date, to enable Tenant to perform, at its sole cost, such work as is necessary to prepare the Demised Premises for Tenant’s occupancy. Any alterations shall be in accordance with Section 9 of this Lease and require Landlord’s prior written consent. Tenant’s occupancy of the Demised Premises under this Section 3.B. shall be upon all the terms, covenants and conditions contained in the Lease, and the payment of Rent shall commence on the Rent Commencement Date, regardless of whether or not Tenant has begun or completed its work in the Demised Premises as of such date.

C. Both Landlord and Tenant shall have the absolute right and option to terminate this Lease (the “**Termination Option**”), provided however, that the party wishing to exercise the Termination Option (the “**Terminating Party**”), shall first provide the party not terminating the Lease (the “**Non-Terminating Party**”), with a notice of Termination (the “**Termination Notice**”). For the Termination Notice to be effective, it must have been received by the Non-Terminating Party not less than one hundred eighty (180) days prior the termination date specified in the Termination Notice. In the event that this Lease is terminated pursuant to the exercise of the Termination Option by either Landlord or Tenant, the termination date specified in the Termination Notice shall be deemed to be the Expiration Date under this Lease. The conditions in this provision apply only to the Termination Option herein; where other provisions of this Lease permit a party to terminate under certain conditions, those specific provisions apply.

4. Rent.

A. Tenant covenants to pay to Landlord the Annual Rent for the Demised Premises on the 1st day of May starting in 2022. The Rent shall increase each year in the amount of the Rent Escalation.

B. All rent shall be payable, without demand and without setoff or other reduction, at Landlord’s Address or such other place as Landlord designates in writing. In the event that any Rent or Additional Rent is not received by Landlord by the 1st day of May when due, Tenant agrees to pay Landlord a late charge equal to five (5%) of the amount which is not timely received by Landlord.

C. No payment by Tenant or receipt by Landlord of a lesser amount than the annual Rent or other charges herein stipulated shall be deemed to be other than on account of the earliest stipulated rent or other charges, nor shall any endorsement or statement on any check or letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check for payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy in this Lease provided.

D. Tenant shall have a credit against the annual Rent for every dollar of meals tax actually collected from customers and timely remitted to the Town within that Lease Year. No credit shall apply, however, to the Rent for any month in which Tenant collects meals tax but fails to remit it to the Town in a timely fashion. For purposes of this Section 4.D., "timely" means "by the payment deadline." No credit for meals tax carries over from one Lease Year to the next. The Tenant will have no credit against the Rent for penalty or interest charged on meals taxes remitted after the deadline. Credit for meals tax shall not apply to Additional Rent, holdover rent under Section 22 of this lease, or the use of the bond required under the Franchise that approves this Lease.

5. Security Deposit.

No Security Deposit is required because the Franchise that approves this Lease requires the posting of a bond pursuant to Virginia Code § 15.2-2104.

6. Use.

The Demised Premises shall be used by Tenant for the specific Use as defined in the Basic Lease Terms and for no other purpose whatsoever. Tenant shall, at its sole cost and expense, promptly comply with all governmental laws, ordinances and regulations (Federal, state and municipal) applicable to the Demised Premises and Tenant's use of the Demised Premises in its business operations, including any structural alterations which may be required. Tenant agrees to obtain necessary permits and licenses to commence its business operation at its sole cost and expense. Landlord shall have no responsibility for Tenant's ability or inability to obtain such permits and licenses, said permits and licenses being the sole responsibility of Tenant.

Tenant shall have exclusive use of the Demised Premises except that the bathrooms and an accessible path to the bathrooms shall be open to public use during normal business hours as determined by the Landlord. Tenant shall erect and maintain signage satisfactory to the Landlord indicating that the bathrooms are open to public use.

Tenant shall not permit any excessive odors, smoke, dust, gas, noise or vibration to emanate from the Demised Premises, nor take any other action which would constitute a nuisance. Tenant shall not receive, store or otherwise handle, any product, material or merchandise which is explosive or highly flammable. Tenant will not permit the Demised Premises to be used for any purpose or in any manner (including, without limitation, any method of storage) which would render the insurance thereon void or increase the premiums therefore or the insurance risk. Landlord makes no representations that the Demised Premises are properly zoned for the prescribed Use.

Tenant shall not permit the storage or discharge into the earth or its atmosphere of effluents, waste or other materials, solid, liquid or gaseous. No waste or other materials shall be disposed of by Tenant in any way or manner which would or will in the future cause the Tenant and/or Landlord to be liable for fines

and penalties under the laws or rules currently in effect (Federal, state and/or municipal) or to incur expenses of any sort to correct any such condition. Tenant shall indemnify and hold Landlord harmless from and against any claims, fines, penalties or causes of action arising out of Tenant's failure to comply with the provisions of this Section.

7. Surrender.

Tenant agrees that it will keep the Demised Premises and the fixtures therein, in good order and condition and will at the expiration or termination of the Lease Term, surrender and deliver up the Demised Premises in as good a condition as they were at the commencement of the Lease Term, ordinary wear and tear and damage by insured casualty not due to the negligence of Tenant excepted.

8. Tenant's Inspection, Repairs and Maintenance.

Tenant represents that it has inspected the Demised Premises and takes the Demised Premises and all equipment therein including, but not limited to, the plumbing and electrical systems, and HVAC "as is", and that Landlord has made no representations or warranties in connection therewith. All repairs to and maintenance of such plumbing and electrical systems, and HVAC are the sole responsibility of the Tenant. Tenant understands and acknowledges that Landlord shall have no responsibility or obligation for any maintenance or repairs to the interior of the Demised Premises.

Tenant agrees that it will take care of the Demised Premises and fixtures and equipment therein and that, upon the expiration or termination of this Lease agreement or any extension thereof, Tenant will leave the Demised Premises thoroughly cleaned and in good condition, ordinary wear and tear excepted. Tenant shall, at its own cost and expense, maintain the interior of the Demised Premises, structural and non-structural items, in good condition, promptly making all necessary repairs and replacements, including, but not limited to windows, glass and plate glass, doors, interior walls and finish work, floors and floor coverings, as well as all other plumbing work and fixtures, termite and pest extermination, regular removal of trash and debris and keep the Demised Premises in a clean and sanitary condition.

Tenant further agrees that it will give the Landlord prompt written notice of any defects in the Demised Premises or in any of the equipment, appliances, or parts thereof as soon as Tenant is aware of them notwithstanding that it is Tenant's responsibility to make such repairs under this Lease. Tenant agrees to pay for all expenses caused by its failure to promptly report any defect, and to pay for all necessary repairs in the Demised Premises or in the equipment thereof including those caused by Tenant's own negligence or that of its invitees, employees or agents.

9. Alterations.

Without Landlord's prior written consent, Tenant shall not make any alterations, additions or improvements to the Demised Premises. All alterations, additions and improvements erected by Tenant shall be the property of Tenant during the term of this Lease and Tenant shall, unless Landlord otherwise elects as hereinafter provided, remove all such alterations, additions and improvements and restore the Demised Premises to their original condition by the termination of this Lease; provided, however, that if Landlord so elects prior to the termination of this Lease, such alterations, additions and improvements shall become the property of Landlord as of the date of the termination of this Lease, and shall be delivered to Landlord with the Demised Premises. Provided that damage shall not be caused to the Demised Premises or that any damage caused is immediately repaired by Tenant, all shelves, bins, machinery, trade fixtures installed by Tenant may be removed by Tenant prior to the termination of this Lease, if Tenant so elects,

and shall be removed by the date of the termination of this Lease if required by Landlord. Upon any such removal, Tenant shall restore the Demised Premises to their original condition, reasonable wear and tear excepted. All such removals and restorations shall be accomplished in a good workmanlike manner so as not to damage the primary structure or structural qualities of the Demised Premises.

All of the alterations, additions, improvements, repairs and maintenance required of or made by Tenant must conform to all regulations and requirements of Federal, state and local governments. Notwithstanding the foregoing, any such alterations, additions, improvements, repairs and maintenance required of or made by Tenant shall not be deemed to be an agreement or consent by Landlord to subject Landlord's interest in the Demised Premises to any mechanic's or materialmen's liens which may be filed in connection therewith.

10. Landlord's Maintenance and Inspection.

Landlord shall maintain the roof and roof structure and shall have the right to enter the Demised Premises at any reasonable time to inspect, maintain, test, or repair the roof and roof structure. Landlord shall also have the right to enter the Demised Premises at any reasonable time during business hours for the purpose of showing the Demised Premises to prospective new tenants or potential buyers and shall have the right to erect on the Demised Premises a suitable sign indicating the Demised Premises are available for rent and/or sale. Landlord shall use its best efforts to minimize disruption to Tenant's business operations during such entry or inspection. Tenant shall give written notice to Landlord at least sixty (60) days prior to vacating the Demised Premises and shall arrange to meet with Landlord for a joint inspection of the Demised Premises prior to vacating. In the event of Tenant's failure to give such notice or arrange such joint inspection, Landlord's inspection at or after Tenant's vacating the Demised Premises shall be conclusively deemed correct for purposes of determining Tenant's responsibility for repairs and restoration. Landlord may also enter the Demised Premises to treat the premises with pesticides and/or pest control devices. Landlord shall give Tenant at least forty-eight (48) hours prior notice prior to the application of pesticide in the Demised Premises. If Tenant requests the application of the pesticide, no notice shall be required.

11. Utilities.

Tenant is solely responsible for all utility expenses.

12. Operating Expenses.

There are no operating expenses to be charged in connection with the Demised Premises.

13. Real Property Taxes.

To the extent that the Demised Premises is currently or hereafter may be subject to property taxes, Tenant agrees to pay to Landlord throughout the term of this Lease, as Additional Rent, any and all real property taxes, assessments, and levies assessed against the Demised Premises during each tax year, together with all penalties and interest charged ("**Real Property Taxes**"), unless Tenant has paid all such Real Property Taxes in full when due.

Should any governmental taxing authority acting under any present or future law, ordinance or regulation, levy, assess, or impose a tax, excise and/or assessment (other than an income or franchise tax) upon or against the Rent, or any part of it, payable by Tenant to Landlord, either by way of substitution (in

whole or in part) for or in addition to any existing tax on the Demised Premises or otherwise, Tenant shall be responsible for and shall pay such tax, excise and/or assessment, or shall reimburse Landlord for the amount thereof within thirty (30) days of demand, as the case may be.

Reasonable expenses incurred by Landlord in obtaining or attempting to obtain a reduction of any Real Property Taxes shall be added to and included as Additional Rent. Real Property Taxes which are being contested by Landlord shall nevertheless be included for purposes of computing Tenant's liability hereunder, but if Tenant shall have paid any amount of Additional Rent pursuant to this Section 13, and thereafter Landlord shall receive a refund of any portion of any Real Property Taxes on which such payment shall have been based, Landlord shall pay to Tenant such refund. Landlord shall have no obligation to contest, object to or litigate the levy or imposition of any Real Property Taxes and may settle, compromise, consent to, waive or otherwise determine in its discretion any Real Property Taxes without the consent or approval of Tenant.

In the event any governmental authority includes in the tax base upon which the Real Property Taxes are levied or assessed the value of any improvements made by Tenant, or of any machinery, equipment, fixtures, inventory or other personal property or assets of Tenant, then Tenant shall pay the entire portion of the Real Property Taxes attributable to or based upon such items in addition to the portion of the Real Property Taxes payable by Tenant as otherwise provided in this Section.

Landlord's failure to collect the estimated Real Estate Taxes shall not be deemed a waiver of Landlord's right to demand and fully collect the same at later time.

Tenant agrees to pay before delinquency all taxes imposed on or incidental to the personal property of Tenant, the conduct of its business and its use and occupancy of the Demised Premises.

14. Signage.

Subject to Landlord's prior written consent, Landlord shall permit Tenant to install a sign identifying the premises on the exterior of the Demised Premises. Tenant shall obtain Landlord consent as to the size, design, color, location and type of signs, thirty (30) days prior to the installation. All signage shall be subject to the approval of all applicable governmental authorities and is at Tenant's sole cost and expense, including any cost of permitting.

Except as provided herein, Tenant will not place or suffer to place on the exterior or visible from the exterior of the premise any sign, advertising matter, decoration or any other thing, nor shall the Tenant paint or decorate any part of the exterior of the Demised Premises without first obtaining Landlord's written consent. Tenant shall at its sole cost and expense maintain any sign, decoration, advertising matter or other thing permitted by Landlord in good condition and repair at all times to the satisfaction of the Landlord. It is further agreed that Tenant shall not use sidewalks, parking areas and alleys for displays of wares or signs of any kinds.

Tenant shall if requested by Landlord remove its signs at the expiration and termination of this Lease, it being expressly understood that any damage to the building as a result of the above removal, will be repaired at the sole cost to the Tenant.

15. Tenant's Improvements and Trade Fixtures.

Tenant shall submit all plans for installation of its improvements and trade fixtures to the Demised

Premises to Landlord for Landlord's written approval prior to beginning installation or construction. Landlord shall also have the right to approve Tenant's contractor. Landlord shall not be responsible for any delay in the improvements of the Demised Premises or the quality of workmanship in the improvements. Tenant shall look solely to the contractor for any liability arising from delay or quality of workmanship.

16. Assignment and Subletting.

Tenant shall not mortgage this Lease or any estate or interest therein. Tenant shall not assign this Lease, in whole or in part, or sublet all or any portion of the Demised Premises, without first obtaining the Landlord's written consent, which consent may be granted or denied at Landlord's sole discretion. This prohibition includes any subletting or assignment which would otherwise occur by operation of law, merger, consolidation, reorganization, transfer or other change of Tenant's corporate or proprietary structure, or any assignment or subletting to or by a receiver or Trustee in any bankruptcy, insolvency, or other proceedings. Any change in ownership or power to vote a majority of the issued and outstanding voting stock of Tenant shall constitute an assignment for the purpose of this Lease and shall require the written consent of Landlord as provided in this Section. Consent by Landlord to any assignment or subletting shall not constitute a waiver of the requirement for Landlord's consent to any subsequent assignment or subletting. The acceptance by Landlord of the payment of rent following any assignment or subletting shall not be deemed to be a consent by Landlord to such assignment or subletting.

It is expressly understood and agreed that in the event Landlord approves a sublease or an assignment by Tenant such approval shall not be construed as a waiver or release of Tenant from the terms of any covenant or obligation under this Lease, nor shall the collection or acceptance of any rent from any such assignee or subtenant constitute a waiver or release of Tenant of any covenant or obligation contained in this Lease, nor shall any such assigning or subletting be construed to relieve Tenant from giving Landlord notice or from obtaining the consent in writing of Landlord to any future assigning or subletting. In the event that Tenant defaults hereunder, Tenant hereby assigns to Landlord the rent due from any subtenant of Tenant and hereby authorizes each such subtenant to pay said rent directly to Landlord. In addition, if the rents and other amounts due and payable under any sublease for any period shall exceed the rents and other amounts payable for the Demised Premises pursuant to this Lease, then Tenant shall pay one hundred percent (100%) of such excess to Landlord, as Additional Rent, as and when received by Tenant.

Landlord may freely and fully assign its interest hereunder. In the event of any transfer of title to the Demised Premises or of Landlord's interest in the Demised Premises occurs, the Landlord shall be relieved of all obligations as landlord under this Lease accruing after such transfer and it shall be deemed, without further agreement, that such transferee has assumed and agreed to perform and observe all obligations of Landlord herein during the period it is the holder of Landlord's interest under this Lease and further, it is hereby agreed that Tenant shall be bound to such transferee, as landlord, in accordance with all of the obligations as Tenant as set out in this Lease.

17. Fire and Casualty Damage.

In the case of the total destruction or the destruction of a substantial part of the Demised Premises by fire, other casualty, the elements, or other cause, or of such damage thereto as shall render the Demised Premises or a substantial part thereof totally unfit for occupancy by Tenant, this Lease, at the option of Landlord, by giving of written notice to the Tenant within ninety (90) days after the date of such destruction or damage, shall terminate and be at an end. In the event of termination, Tenant shall surrender and deliver to Landlord the Demised Premises together with payment of the Rent and Additional Rent to the date of such occurrence. For purposes of this Section, a "substantial part" shall mean thirty-five (35%) or more of

the Demised Premises as reasonably determined by the Landlord.

If the Lease does not terminate pursuant to the foregoing provisions or there is only a partial destruction of the Demised Premises, Landlord shall commence to restore the Demised Premises with all reasonable diligence, but only to the extent that Landlord has available to it insurance proceeds and then only to the extent of such insurance proceeds actually paid to Landlord and available, and the Rent shall be abated proportionately based upon the square foot area of the Demised Premises still tenantable, from the date of casualty to the date that the Demised Premises are restored by the Landlord; provided, however, if Tenant cannot conduct its intended business use in the remaining portion of the Demised Premises, rent shall totally abate until the Demised Premises are restored by the Landlord. Landlord, however, shall not under any circumstances be required to expend any sums in excess of insurance proceeds received for purposes of such restoration. No compensation, claim or diminution of Rent will be allowed or paid, by Landlord, by reason of inconvenience, annoyance, or injury to business arising from the necessity of repairing the Demised Premises. In no event shall Landlord be required to rebuild, repair, or replace any part of the partitions, fixtures, additions and other improvements which may have been placed in, on or about the Demised Premises by Tenant. Notwithstanding the foregoing, if the restoration of the Premises is not completed within nine (9) months from the date of destruction or damage, then either party shall have the right to terminate this Lease by notice given within thirty (30) days thereafter; otherwise the Lease shall continue.

18. Liability and Indemnification.

Landlord shall not be liable for any losses, damages, injuries or accidents of any kind however or by whatever or whomever caused, arising from any occurrence on or about the Demised Premises or the occupancy or uses by Tenant of the Demised Premises or caused by any act or omission of Tenant, its agents, servants, employees, assignees, customers or invitees, unless caused by the gross negligence of Landlord and covered by casualty or liability insurance. Notwithstanding any other provision of this Lease to the contrary, except to the extent expressly prohibited by law, Tenant hereby waives any claim it might have against Landlord or any officer, employee or agent of Landlord, for any consequential damages sustained by Tenant arising out of the loss or damage to any person or property of Tenant. In addition, Tenant agrees only to look to Landlord's interest in the Demised Premises for recovery of any judgment from Landlord, it being specifically agreed that Landlord shall not be personally liable for any such judgment.

Tenant shall indemnify Landlord, and shall save it harmless from and against any and all claims, actions, damages, liability and expense, including reasonable attorneys' fees, in connection with loss of life, personal injury or damage to property arising from any occurrence in or about the Demised Premises, or from the occupancy or uses by Tenant of the Demised Premises, or caused by any act or omission of Tenant, its agents, servants, employees, assignees, customers or invitees, including, but not limited to, the filing of any mechanics' or materialmen's liens against the Demised Premises, unless caused by the gross negligence of Landlord and covered by casualty or liability insurance.

19. Attorney's Fees.

Tenant shall pay all costs and expenses, including reasonable attorneys' fees and court costs that may be incurred by Landlord in enforcing any of the covenants and agreements in this Lease, in enforcing a termination of this Lease, or in pursuing collection of any amounts owed to Landlord under this Lease.

20. Insurance.

At all times after the execution of this Lease, Tenant will carry and maintain at Tenant's sole cost and expense:

A. Public liability insurance with respect to the Demised Premises, to afford protection with limits of not less than \$1,000,000 per incident and \$2,000,000 per year with respect to personal injury or death, and \$500,000 with respect to property damage;

B. If and to the extent required by law, workers' compensation or similar insurance in form and amounts required by law; and

C. Fire, vandalism and extended coverage insurance with respect to Tenant's improvements and fixtures, equipment and other property in the Demised Premises written on a replacement cost basis.

The insurance policies evidencing such insurance shall be maintained with insurance companies approved by Landlord and authorized to conduct business in the Commonwealth of Virginia, shall name Landlord as an additional named insured and shall also contain a provision by which the insurer agrees that such policies shall not be cancelled except after thirty (30) days written notice to Landlord. Upon execution of this Lease and annually thereafter, and upon request by Landlord, Tenant shall deliver to Landlord proof of insurance evidencing each such policy to be in effect.

Each Insurance policy carried by Tenant pursuant to this Section 20, shall provide, if agreed to by the insurance company, that the insurance company waives all rights of recovery by way of subrogation against Landlord in connection with all matters included within the scope of such policies.

21. Condemnation.

In the event less than a substantial part of the Demised Premises shall be taken, condemned or sold for public or quasi-public use or purpose by or to any competent authority under any current or future law, then this Lease shall not terminate except as to the part taken. The Lease will terminate as to the part taken as of the date when title vests in any such authority. Tenant shall pay Rent and Additional Rent covering only that part of the Demised Premises not so taken; the Rent for such space shall be that portion of the total Rent and Additional Rent which the amount of square foot area remaining bears to the total square foot area of all of the Demised Premises. Tenant agrees that if the entire Demised Premises, or the building of which the Demised Premises are a part, or a substantial part thereof, shall be taken or condemned or sold for public or quasi-public use or to any competent authority, this Lease shall terminate as to the entire Demised Premises as of the date when title vests in such authority. Tenant shall have no claim against Landlord and shall have no claim or right to any portion of the amount awarded as damages or paid as a result of any condemnation. Upon such condemnation or taking, Tenant shall have no claim against Landlord for the value of any unexpired term of this Lease, leasehold improvements or goodwill. For purposes of this Section, a "substantial part" shall mean twenty five percent (25%) or more of the Demised Premises or the building of which the Demised Premises are a part.

Notwithstanding the foregoing provisions of this Section, Tenant shall be entitled to make a separate claim against the condemning authority for loss of its leasehold interest or other damages provided that the amount of Landlord's award shall not be reduced thereby.

If less than a substantial part of the Demised Premises be taken by condemnation, or the Lease is

not terminated in accordance with the foregoing provisions, Landlord shall, upon receipt of the award of condemnation, make all necessary repairs or alterations to the Demised Premises so as to constitute the Demised Premises a complete architectural unit, but Landlord shall not in any event be required to spend for such work more than the amount received by Landlord as damages. Tenant, at its sole cost and expense, shall, with respect to all signs, trade fixtures, equipment, display cases, furniture, furnishings and other installations of Tenant restore such part of the Demised Premises as is not taken to as near to its former condition as possible.

Notwithstanding anything herein to the contrary, in the event the holder of any indebtedness secured by a mortgage or deed of trust covering the Demised Premises requires that the condemnation proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease by delivering written notice of termination to Tenant within fifteen (15) days after such requirement is made by any such holder, whereupon all rights and obligations under this Lease shall terminate.

22. Holding Over.

Tenant will, at the termination of this Lease, yield immediate possession to Landlord. Unless the parties hereto otherwise agree in writing on the terms of such holding over, the hold over tenancy shall be subject to termination by Landlord at any time upon not less than thirty (30) days advance written notice, or by Tenant at any time upon not less than thirty (30) days advance written notice. However, in the event of nonpayment of Rent or Additional Rent or any other payments required to be made by Tenant hereunder, when due, or of the breach of any other covenant herein contained by Tenant, Tenant shall not be entitled to any notice to quit, the usual thirty (30) days' notice to quit being hereby waived. All of the other terms and provisions of this Lease shall be applicable during the holdover period, except that Tenant shall pay Landlord from time to time upon demand as rental for the period of any holdover, an amount equal to twice the rent in effect on the Lease termination date, computed on a daily basis for each day of the holdover period. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided herein or in a written amendment to this Lease. This Section shall not be construed as Landlord's consent for Tenant to hold over.

In the event Tenant shall hold over after the expiration of the term hereby created, and if Landlord shall desire to regain possession of the Demised Premises promptly at the expiration of the term aforesaid, then at any time prior to Landlord's acceptance of Rent from Tenant as a monthly tenant hereunder, Landlord may forthwith re-enter and take possession of the Demised Premises without process, or by any legal process in force.

23. Quiet Enjoyment.

Landlord covenants that Tenant, upon paying the rent and performing its other covenants and agreements herein set forth, shall peaceably and quietly have, hold and enjoy the Demised Premises for the term of the Lease without hindrance or molestation from Landlord, subject, however, to the terms and provisions of this Lease.

24. Lien for Rent.

Tenant hereby grants to Landlord a lien on all personal property of Tenant now or hereafter placed in or on the Demised Premises and such property shall be and remain subject to such lien of Landlord for payment of all Rent, Additional Rent and all other sums agreed to be paid by Tenant herein or for costs relating to the Demised Premises that Tenant may hereafter agree to pay to Landlord. Said lien shall be in

addition to and cumulative of the Landlord's lien rights provided by law.

25. Events of Default.

The following events shall be deemed to be events of default by Tenant under this Lease:

A. Tenant shall fail to pay any installment of the Rent, Additional Rent, or any other payment or reimbursement to Landlord required herein, when due.

B. Tenant shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors.

C. Tenant shall file a petition under any chapter of the Bankruptcy Reform Act, as amended, or under any similar law or statute of the United States or the Commonwealth of Virginia, or such a petition is filed against Tenant and such petition is not dismissed within thirty (30) days of filing.

D. A receiver or trustee shall be appointed for all or substantially all of the assets of Tenant. If said receiver shall be appointed pursuant to the petition of someone other than Tenant, if such appointment is not terminated within thirty (30) days of appointment.

E. Tenant shall vacate or abandon the Demised Premises for ten (10) consecutive days, unless such vacating or abandonment is a result of alteration, renovation, fire or condemnation and Tenant manifests an intention to return.

F. The taking of this Lease or the Demised Premises or any part thereof upon execution or by other process of law directed against Tenant, or upon or subject to any attachment at the instance of any creditor of or claimant against Tenant, which shall not be discharged or disposed of within forty-five (45) days after the levy thereof.

G. Tenant shall fail to comply with any term, provision or covenant of this Lease, other than the payment of Rent, Additional Rent and other charges, and shall not cure such failure, within thirty (30) days after written notice thereof to Tenant.

H. A breach by Tenant of any other agreement Tenant has entered into with Landlord.

26. Remedies.

Upon the occurrence of any of the events of default, then, at the option of Landlord, Tenant's right of possession shall thereupon terminate, and Landlord shall be entitled to possession of the Demised Premises. Landlord may proceed to recover possession either by forcible reentry without process of law or by process of law. Any notice to quit, or of intention to reenter the Demised Premises, is hereby expressly waived by Tenant. In the event of such reentry by process of law or otherwise, Tenant nevertheless agrees to remain answerable for any and all damages, including, but not limited to, reasonable attorneys' fees, brokerage fees, expenses of placing the Demised Premises in first class rentable condition and deficiency or loss of rent which Landlord may sustain by such reentry, whether or not Landlord re-lets the Demised Premises, plus interest from the date due to date of payment in the amount of one percent (1%) per month. In the event of reentry, Landlord shall have full power, which is hereby acceded to by Tenant, to re-let the Demised Premises for and on behalf of Tenant. Whether or not Landlord re-lets the Demised Premises, Landlord shall have the right both to sue each month for loss of Rent, Additional Rent, and monthly deficits

and to sue immediately for all Rent, Additional Rent and monthly deficits due as of the date of default and due for the remaining term of the Lease, such rentals for the remainder of the term to be accelerated at Landlord's option. The commencement or maintenance of any one or more actions shall not bar Landlord from bringing subsequent actions for further accruals pursuant to provisions of this Section. Anything to the contrary notwithstanding, Landlord may, at its option, await the expiration of the term of this Lease before seeking to recover any such Rents, Additional Rents and monthly deficits, in which event the causes of action shall not be deemed to have accrued until the date of expiration of said term.

Tenant on behalf of itself and all persons claiming through Tenant, including all creditors, does hereby waive any and all rights and privileges, so far as is permitted by law, which Tenant and all such persons might otherwise have under any present or future law (i) to the service of any notice of intention to reenter, (ii) to reenter or repossess the Demised Premises, or (iii) to restore the operation of this Lease, with respect to any dispossession of Tenant by judgment or warrant of any court, whether such dispossession, reentry, expiration or termination be by operation of law or pursuant to the provisions of this Lease.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies provided herein or by law, nor shall pursuit of any remedy herein provided constitute, a forfeiture or waiver of any Rent or Additional Rent due to Landlord or of any damages accruing to Landlord by reason of the violation of any of the other terms, provisions and covenants of this Lease. No act or thing done by Landlord or its agents during the Lease Term shall be deemed a termination of this Lease or an acceptance of the surrender of the Demised Premises, and no agreement to terminate this Lease or accept a surrender of the Demised Premises shall be valid unless it is in writing and signed by Landlord. No waiver by Landlord of any violation or breach of any of the terms, provisions and covenants herein contained shall be deemed a waiver of any other violation or breach of any of the terms, provisions and covenants of this Lease. Landlord's acceptance of the payment of Rent or other payments hereunder after the occurrence of an event of default shall not be construed as a waiver of such default, unless Landlord so notifies Tenant in writing. Forbearance by Landlord to enforce one or more of its remedies upon an event of default shall not constitute a waiver of such default or of Landlord's right to enforce any such remedies with respect to such default or any subsequent default.

27. Landlord's Cure of Default by Tenant; Reimbursement of Expenses.

If Tenant defaults in making any payment or in doing any act herein required, then Landlord may, but need not, make such payment or do such act. If Landlord makes any such payment or incurs any charge or expense, on behalf of Tenant under the terms of this Lease, the amount of the payment or expense, shall constitute Additional Rent hereunder, and shall, unless otherwise provided herein, be due and payable within ten (10) days after Landlord sends a written invoice therefor; provided, however, that the making of any such payment or the doing of such act by Landlord shall not cure such default by Tenant, or estop Landlord from pursuing any remedy to which Landlord would otherwise be entitled.

28. Subordination.

This Lease is subject and subordinate to all ground or underlying leases, and to any mortgage or deed of trust (which terms shall include both construction and permanent financing) that may now or hereinafter encumber or otherwise affect the Demised Premises or Landlord's leasehold interest therein, and to all renewals, extensions, modifications, consolidations, replacements, and/or refinancings thereof. This clause shall be self-operative, and no further instrument of subordination shall be required by any mortgagee or trustee to effect the subordination of this Lease. Nonetheless, in confirmation of such

subordination, Tenant shall, at Landlord's request, promptly execute any requisite or appropriate certificate or document. Tenant hereby constitutes and appoints Landlord as Tenant's attorney-in-fact to execute any certificates or documents on behalf of Tenant. Tenant further covenants and agrees that it will, at the written request of the party secured by a mortgage or deed of trust, execute, acknowledge and deliver any instrument to effect the subordination of this Lease to such mortgage or deed of trust. Tenant agrees that in the event that any proceedings are brought for the foreclosure of such mortgage or deed of trust, Tenant shall attend to the purchaser at such foreclosure sale, if requested to do so by the Purchaser, and to recognize the purchaser as Landlord under this Lease, and Tenant waives the provisions of any statute or rule of law, now or hereafter in effect, which may give Tenant any right to terminate this Lease in the event that any such foreclosure proceeding occurs.

29. Estoppel Certificates.

Tenant agrees, upon not less than five (5) days written notice by Landlord, to execute, acknowledge and deliver to Landlord, a statement in writing: (i) certifying that this Lease is unmodified and in full force and effect, or if there have been modifications, that this Lease is in full force and effect as modified and stating any such modifications; (ii) certifying that Tenant has accepted possession of the Demised Premises; (iii) stating that no rent under this Lease has been paid more than thirty (30) days in advance of its due date; (iv) stating the address to which notices to Tenant should be sent; (v) certifying that Tenant, as of the date of any such certification, has no charge, lien or claim of set-off under this Lease, or otherwise, against rents or other charges due or to become due hereunder; and (vi) stating whether or not to the best of Tenant's knowledge, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which Tenant may have knowledge. Any such statement delivered pursuant hereto may be relied upon by any owner of the Demised Premises, any prospective purchaser of the Demised Premises, any mortgagee, or prospective mortgagee of the Demised Premises or of Landlord's interest, or any prospective assignee of any sub- mortgagee.

30. Mechanics' Lien.

Tenant shall have no authority, express or implied, to create or place any lien or encumbrance upon, or in any manner to bind, the interest of Landlord in the Demised Premises or to charge the rentals payable hereunder for any claim in favor of any person dealing with Tenant, including those who may furnish materials or perform labor or any construction or repairs. Tenant covenants and agrees to pay all sums legally due and payable by it on account of any labor performed or materials furnished on the Demised Premises on which any lien is or can be validly and legally asserted against its leasehold interest in the Demised Premises. If any mechanics' or materialmen's lien is filed against the Demised Premises for work furnished to Tenant such lien shall be discharged by Tenant within ten (10) days, at Tenant's sole cost and expense, by the payment thereof or by filing any bond required by law. If Tenant fails to discharge any such mechanics' or materialmen's lien, Landlord may, at its option, discharge the same and treat the cost thereof as Additional Rent payable with the monthly installment of Rent next becoming due. In no event, however, shall such payment by Landlord cure such default by Tenant or estop Landlord from pursuing any remedy to which Landlord would otherwise be entitled.

31. Financing Requirements.

In the event that any bank, insurance company, or other financial institution providing mortgage financing for the Demised Premises requires, as a condition of such financing, that modification to this Lease be obtained, and provided that such modifications (a) are reasonable, (b) do not adversely affect Tenant's use of the Demised Premises as herein permitted under the terms of the Lease, and (c) do not

increase the rentals and other sums required to be paid by Tenant hereunder, Landlord shall submit such required modifications to Tenant, and Tenant shall execute an Amendment hereto incorporating such modifications within ten (10) days after the same has been submitted to Tenant. If Tenant shall fail to so execute such an amendment, then Landlord shall thereafter have the right to terminate this Lease, by giving Tenant written notice of such termination, and Landlord shall thereupon be relieved from any further obligations hereunder.

32. Notices.

A. All Rent, Additional Rent and other payments required to be made by Tenant to Landlord hereunder shall be payable to Landlord at the address set forth in the Basic Lease Terms or at such other address as Landlord may specify from time to time by written notice.

B. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered whether or not actually received, when deposited in the United States Mail, postage prepaid, Certified or Registered Mail, addressed to the parties at the respective addresses set forth in the Basic Lease Terms, or at such other address as they have specified by written notice delivered in accordance herewith.

33. No Partnership.

Nothing contained in this Lease shall be construed to create a partnership or joint venture of or between Landlord and Tenant, or create any other relationship between those parties other than that of Landlord and Tenant. Any intention to create a joint venture, partnership or agency relationship between the Landlord and Tenant is hereby expressly disclaimed. Nothing contained in this Lease shall be construed so as to confer upon any other party the rights of a third-party beneficiary.

34. No Representations by Landlord.

Neither Landlord nor any agent or employee of Landlord has made any representations or promises with respect to the Demised Premises except as herein expressly set forth, and no rights, privileges, easements or licenses are required by Tenant except as herein set forth. Tenant, by taking possession of the Demised Premises, shall accept the same "as is" and such taking of possession shall be conclusive evidence that the Demised Premises is in good and satisfactory condition at the time of such taking of possession.

35. Brokers.

Landlord and Tenant shall be solely responsible for compensating such brokers as they may from time to time engage.

36. Waiver of Trial by Jury.

Tenant hereby waives its right to a trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto on any matters in any way connected with this Lease, the relationship of Landlord and Tenant, and/or Tenant's use or occupancy of the Demised Premises.

37. Waiver of Redemption.

Tenant hereby expressly waives, for itself and all persons claiming by, through, or under it, any right of redemption or for the restoration of the operation of this Lease under any present or future law in

case Tenant shall be dispossessed for any cause, or in case Landlord shall obtain possession of the Demised Premises as provided herein.

38. Binding Effect of Lease.

It is agreed that all rights, remedies and liabilities of the parties hereto shall extend to their respective heirs' executors, administrators and, except as otherwise expressly provided in this Lease, their successors and permitted assigns.

39. Rules and Regulations.

Tenant, its agents, employees, invitees, licensees, customers, clients, and guests shall at all times abide by and observe all rules or regulations as may be promulgated from time to time by Landlord for the operation and maintenance of the Demised Premises, as the same may be in effect from time to time. Any default by Tenant, its agents, employees, invitees, licensees, customers, clients, and guests, of any of the provisions of the rules and regulations as amended, from time to time, shall be considered to be a default under the terms of this Lease.

Nothing contained in this Lease shall be construed to impose upon Landlord any obligation to enforce such rules and regulations and Landlord shall have no liability to Tenant or any other party for violation of the Rules and Regulations by any party whatsoever.

40. Applicable Law.

The laws of the Commonwealth of Virginia shall govern the validity, performance and enforcement of this Lease.

41. Time of Essence.

Time is of the essence with respect to the performance of Tenant's obligations under the Lease.

42. Acceptance of Charges.

Tenant's failure to object in writing to any statement, invoice or bill rendered by Landlord within five (5) days of its receipt shall constitute Tenant's acquiescence with respect thereto and shall render such statement, invoice or bill an account stated between Landlord and Tenant and final and binding upon the Tenant. In the event Tenant disputes the amount of any such statement, invoice or bill, Tenant shall nevertheless pay the full amount of the statement, invoice, or bill, including the amount disputed. In the event Tenant prevails in such dispute, Landlord will refund to Tenant the amount overpaid by Tenant.

43. Survival of Terms.

All obligations of Tenant hereunder not fully performed as of the expiration or earlier termination of the term of this Lease shall survive the expiration or earlier termination of the term hereof, including, without limitation, all payment obligations with respect to Rent, and Additional Rent and Operating Expenses and all obligations and indemnifications concerning the condition of the Demised Premises. Upon the expiration or earlier termination of the term hereof, and prior to Tenant vacating the Demised Premises, Tenant shall pay to Landlord any amount reasonably estimated by Landlord as necessary to put the Demised Premises in good condition and repair, reasonable wear and tear excepted. All such amounts

shall be used by Landlord for payment of such obligations of Tenant hereunder, with Tenant being liable for any additional costs therefor upon demand by Landlord, or with any excess to be returned to Tenant after all such obligations have been determined and satisfied.

44. Partial Invalidity.

If any provision of this Lease or the application thereof to any person or circumstances shall to any extent be held void, unenforceable or invalid, then the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held void, unenforceable or invalid shall not be effected thereby, and each provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

45. Corporate Tenant.

If Tenant is a corporation or any other legal entity, the persons executing this Lease on behalf of Tenant hereby covenant and warrant that: (i) Tenant is a duly constituted corporation or legal entity, as the case may be; (ii) Tenant is qualified to do business in the state in which the Demised Premises are located; (iii) all of Tenant's franchises and corporate taxes have been paid to date; (iv) all future forms, reports, fees and other documents necessary for Tenant to comply with applicable laws will be filed by Tenant when due; and (v) such persons are duly authorized under applicable law by such corporation or other legal entity, as the case may be, to execute and deliver this Lease on behalf of the same.

46. Joint and Several Liability.

Each person and/or entity executing this Lease as a tenant shall be jointly and severally liable for all obligations, covenants, payments, and duties of Tenant hereunder.

47. Entire Agreement.

This Lease contains the entire and only agreement between the parties. No oral statements or representations or prior written matter not contained or referred to in this Lease shall have any force or effect. This Lease shall not be modified in any way except by a writing executed by both parties hereto. No waiver of any provision of this Lease shall be deemed to have been made unless it is in writing and signed by both parties hereto.

48. Multiple Copies.

The parties may execute multiple copies of this Lease, each of which shall be deemed an original.

49. Parking.

Tenant is solely responsible for obtaining and maintaining sufficient parking, including removal of snow or debris.

50. Miscellaneous.

A. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural and vice versa, in any place in which the context so requires.

B. If Tenant is a corporation or other entity, Tenant agrees to furnish to the Landlord, promptly upon demand, appropriate documentation evidencing the valid creation and existence of Tenant as a corporation or other entity, and proof of due authorization by the Shareholders, Board of Directors and/or owners of Tenant to enter into this Lease.

C. The captions, paragraph numbers and index appearing in this Lease are for convenience of reference only, and in no way define, limit or otherwise describe, explain, modify or amplify the interpretation or construction of any provision of this Lease.

D. Landlord and Tenant each acknowledge that they have had full opportunity to obtain legal counsel prior to executing this Lease.

F. This Lease may not be recorded by Tenant.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have duly executed this Lease under seal as of the day and year first above written.

TENANT:

By: _____
Name: _____
Title: _____
Date: _____

LANDLORD:

THE TOWN OF OCCOQUAN,
A Municipal corporation of the Commonwealth of Virginia

By: _____
Name: Earnest W. Porta, Jr.
Title: Mayor
Date: _____

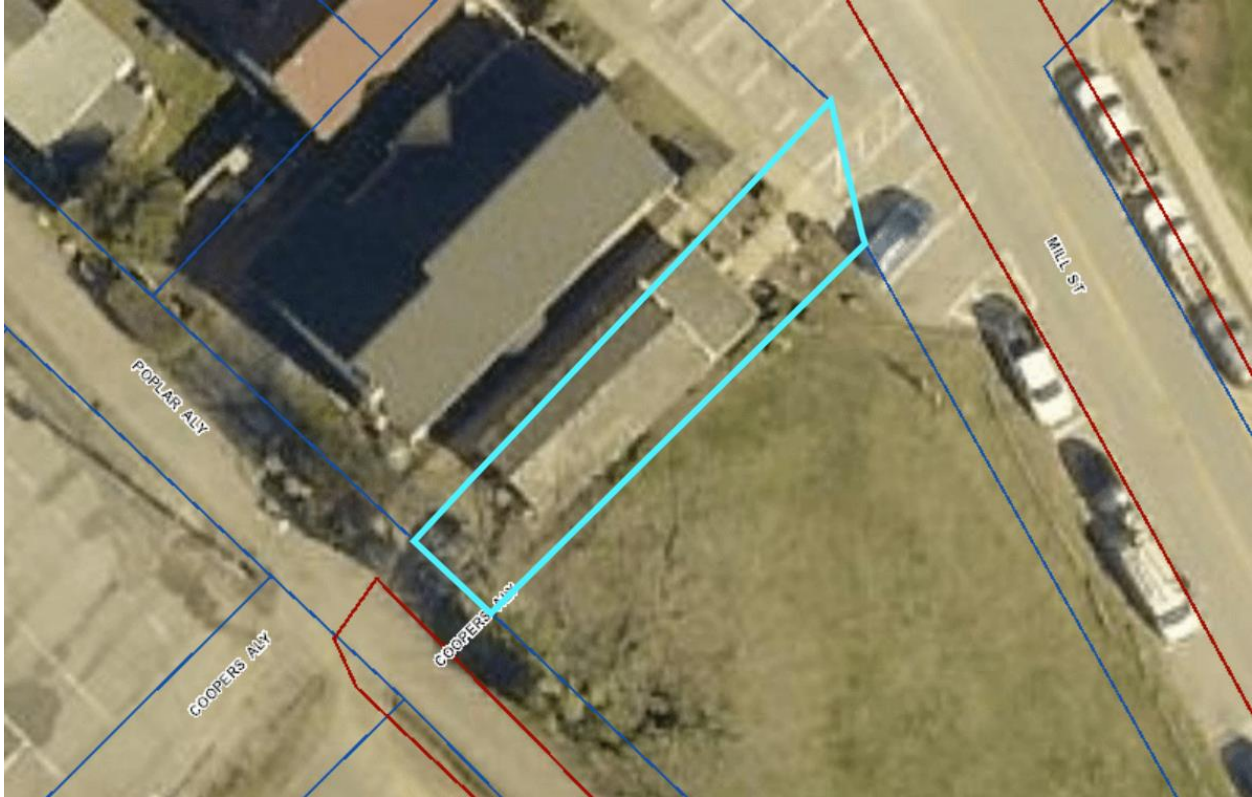
Attest: _____
Clerk, Town of Occoquan

APPROVED AS TO FORM:

Town Attorney

EXHIBIT "A"

DESCRIPTION/DEPICTION OF DEMISED PREMISES



Town of Occoquan, Virginia
Notice of Public Hearing and Invitation to Bid on a
Franchise for 200 Mill Street
(Former Town Visitor Center)

Notice is hereby given pursuant to §§ 15.2-1800 and 15.2-2100 of the Code of Virginia, as amended, that the Council of the Town of Occoquan, Virginia, a Municipal Corporation of the Commonwealth of Virginia, proposes a franchise to permit use of the building and property at 200 Mill Street for a term of five years with one renewal term of five years and a right of first refusal, and invites (i) public comment and (ii) bids thereon. The public hearing will be held on March 16, 2021 at 7:00 p.m. Bids shall be in writing and delivered to Town Council, 314 Mill Street, Occoquan, Virginia 22125 no later than the date of the public hearing at 7:00 p.m., local time, in open session of Council to the presiding officer of Council. A copy of the full text of the franchise ordinance and lease is on file in the Office of the Town Clerk, 314 Mill Street, Occoquan, Virginia and on the Town's website at www.occoquanva.gov.

If multiple bids are submitted, the Town Council will refer them to the Town Manager for a recommendation based on the interests of the Town. Town Council may make other investigations of bidders as it sees fit. The Town reserves the right to reject any and all bids.

3/4 & 3/11/21



TOWN OF OCCOQUAN

TOWN COUNCIL MEETING

Agenda Communication

4. Regular Business	Meeting Date: March 16, 2021
4A: Request to Accept a Bid and Award a Franchise for the Use of 200 Mill Street (Former Visitor Center)	

Attachments: a. None

Submitted by: Kirstyn Jovanovich
Town Manager

Explanation and Summary:

The Town Council held a public hearing on March 16, 2021 on the proposed franchise ordinance and lease for the use of the property and building located at 200 Mill Street. This is a request to accept a bid and adopt the ordinance as advertised.

As of March 12, the Town has received one bid. Jeremy Barber has submitted a bid proposing to utilize the building and property located at 200 Mill Street as part of a food and beverage operation planned on the adjacent privately-owned property. The bid states that he agrees to the terms of the franchise and lease as drafted.

Town Manager Recommendation: If additional bids are received and the Town Council has not had time to review them, then the Town Council should refer the bids to the Town Manager for review and recommendation and set a date for action. If no other bids are received or if Town Council has had time to review received bids and finds that Mr. Barber's bid is superior, then staff recommends accepting the bid and adopting the ordinance as advertised.

Town Attorney Recommendation: Concur with Town Manager's recommendation.

Proposed/Suggested Motion(s):

[If accepting the highest bid]: I move to accept the bid from _____ and to adopt the ordinance as advertised, inserting the name of the accepted bidder.

OR

[If accepting a lower bid]: I move to accept the bid from _____ even though it is not the high bid, to award the franchise to that bidder, and to adopt the ordinance awarding the franchise with the following language inserted to express the reason affecting the interest of the Town which makes it advisable to do so, namely _____.

OR

[If multiple bids are received and the Town Council wishes to have them evaluated]: I move to refer the bids received to the Town Manager and to set a date of _____ for further action of the Town Council in relation to accepting a bid and adopting an ordinance to award the franchise.

OR

Other action as appropriate.