

RESOLUTION NO. 13314-20

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE AND THE CITY CLERK TO ATTEST, ON BEHALF OF THE CITY OF NEWPORT NEWS, VIRGINIA, THAT CERTAIN LEASE AGREEMENT BY AND BETWEEN PCT, LLC, AND THE CITY OF NEWPORT NEWS, VIRGINIA, DATED APRIL 14, 2020, FOR OFFICE SPACE LOCATED AT 610 THIMBLE SHOALS BOULEVARD, IN THE CITY OF NEWPORT NEWS, VIRGINIA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newport News, Virginia:

1. That it hereby authorizes and directs the City Manager to execute and the City Clerk to attest, on behalf of the City of Newport News, Virginia, that certain Lease Agreement by and between PCT, LLC, and the City of Newport News, Virginia, dated April 14, 2020, for office space located at 610 Thimble Shoals Boulevard, in the City of Newport News, Virginia.

2. That a copy of the aforesaid Lease Agreement is attached hereto and made a part hereof.

3. This resolution shall be in effect on and after the date of its adoption, April 14, 2020.

PASSED BY THE COUNCIL OF THE CITY OF NEWPORT NEWS ON APRIL 14, 2020

Mabel Washington Jenkins, MMC
City Clerk

McKinley L. Price, DDS
Mayor

A true copy, teste:

City Clerk

LEASE AGREEMENT

THIS LEASE AGREEMENT dated 14th day of April, 2020, by and between **PCT, LLC**, a Virginia limited liability company, with its principal office at 1115 Independence Blvd., Suite 208, Virginia Beach, VA 23455, hereinafter referred to as the "Lessor"; and the **CITY OF NEWPORT NEWS, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia, having a principal address of 2400 Washington Avenue, Newport News, Virginia 23607, 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 Building 6 and Building 5, Suite 500 containing approximately 16,746 square feet (approx. 6,746 sf and 10,000 sf respectively) and being located at the following address: 610 Thimble Shoals Boulevard, Newport News, VA 23606, 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, toilets, 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 an initial term of five (5) years, commencing on May 1, 2020 and terminating on April 30, 2025. Lessee shall take possession of Building 6 on May 1, 2020 and Building 5, Suite 500 on July 1, 2020 or as soon thereafter as the Tenant Improvements are completed.

2. **USE.** The Leased Premises are to be used for general purposes for **General Office Use** in compliance with all applicable zoning, codes, and regulations and for no other purposes without prior written consent of Lessor. Lessee shall not use the Leased Premises for any unlawful or offensive 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 pursuant to the agreed upon floor plan and above-referenced commencement dates, barring strikes, insurrection, Acts of God, and other casualties or unforeseen events beyond the control of the Lessor. The Lessee, at the expiration of the terms, shall deliver up the Leased Premises in good repair and condition, damages beyond the control of the Lessee, reasonable use, and ordinary 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 month thereafter, the rental amount specified in Sec. 6 "Rent Schedule" and any additional charges ("Additional Rent") due. Rent shall be paid to Lessor at PCT, LLC, 1115 Independence Blvd., Suite 208, Virginia Beach, Va. 23455.

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 pro-rata 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.

It is understood between the parties that Lessee's payment of rent and any other amounts owed pursuant to this Lease are subject to the annual appropriation of the Newport News City Council.

5. **RENEWAL OPTIONS.** Provided that Lessee is not in default in the performance of this lease, Lessee shall have two (2) options to renew for one (1) additional year each at a rental rate that shall escalate by two percent (2%) at the start of each renewal term. All of the terms and conditions of the lease shall apply

during the renewal term. In order to exercise these options, Lessee must provide Lessor with written notice not less than 90 days prior to the expiration of the initial term or renewal term.

6. RENT SCHEDULE.

Period	PSF	Premises	Monthly Rent	Annual Rent
5/1/2020 – 6/30/2020	\$11.00	Bldg. 6	\$ 6,183.83	\$ 12,367.66
7/1/2020 – 4/30/2021	\$11.00	Bldg. 5+6	\$ 15,350.50	\$153,505.00
5/1/2021 – 4/30/2022	\$11.22	"	\$ 15,657.51	\$ 187,890.12
5/1/2022 – 4/30/2023	\$11.44	"	\$ 15,964.52	\$ 191,574.24
5/1/2023 – 4/30/2024	\$11.67	"	\$ 16,285.49	\$ 195,425.82
5/1/2024 – 4/30/2025	\$11.91	"	\$ 16,620.41	\$ 199,444.86

Should the Tenant Improvements described below to Building 5, Suite 500 not be completed on or before July 1, 2020, the increase in rent attributable to Building 5, Suite 500 shall be abated until such time as said premises are made available for Lessee's use.

7. TENANT IMPROVEMENT (TI) ALLOWANCE.

A. Lessor shall pay for the following Tenant Improvements (TI) to be amortized over seven (7) years:

- Bldg. 6 – paint and shampoo carpet;
- Bldg. 5 – build-out and improvements to Suite 500 per the attached Exhibit B Floor Plan.

B. The cost of the TI has been included in the calculation of the above Rent Schedule, and amortized across 7 years of rent payments. If Lessee vacates the Leased Premises prior to the end of Lease Year 7 (the end of the second one year renewal period), Lessee shall reimburse Lessor for the cost of the unamortized TI at the time of Lease termination. For example:

1. If Lessee vacates the Leased Premises upon or after the end of Lease Year 5 but prior to the end of Lease Year 6: \$50,000
2. If Lessee vacates the Leased Premises upon or after the end of Lease Year 6 but before the end of Lease Year 7 (the second renewal period): \$25,000.
3. If the Lease expires at the end of Lease Year 7: \$0

Lessee shall not be responsible for such reimbursement if the Lease is terminated through no fault of Lessee, including, but not limited to, termination due to destruction of the Leased Premises, condemnation, or default by the Lessor.

8. SALES AND USE TAX. Not Applicable.

9. **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. Notices shall be directed to the following addresses:

To Lessor:
PCT, LLC
1115 Independence Blvd., #208
Va. Beach, VA 23455

To Lessee:

City Manager
2400 Washington Avenue, 10th Floor
Newport News, Virginia 23607

With a copy to:

City Attorney
2400 Washington Avenue, 9th Floor
Newport News, Virginia 23607

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 in its reasonable discretion, which such approval shall not be unreasonably withheld.

11. **SECURITY DEPOSIT.** Not Applicable.

12. **DESTRUCTION OF PREMISES.**

A. If all 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 in the event the destruction or damage is so extensive as to make it unfeasible, in the Lessee's opinion, for the Lessee to conduct Lessee's business on the Lease 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.**

A. Janitorial service and telecommunication installation/service will be the Lessee's responsibility.

B. Electricity service will be the Lessee's responsibility. Lessor will furnish upon the commencement of the term hereof, electric light bulbs for the lighting fixtures installed by it in the Leased Premises. 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. Lessor shall use due diligence to restore such services with reasonable dispatch, but shall not have any liability for interruption of service by other causes beyond his control.

Lessee will pay its pro-rata share of the electric fees ("Additional Rent") for Suite 500 within 15 days of receiving a billing statement from Lessor. Lessee will directly pay the electric fees for Building 6 and will transfer the Dominion Energy account to Lessee's name upon Lease commencement.

14. **ALTERATIONS.** Lessee covenants that it will not make any alterations, additions or improvements to the Leased Premises without Lessor's prior written consent, which consent shall not be unreasonably withheld, and such alterations, additions and improvements, including attached cabinets, plumbing and light fixtures, 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 unless otherwise agreed to in writing by Lessor. Upon notice of Lessor, Lessee must remove any unauthorized 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. Except in cases of emergency repairs, Lessor shall coordinate the timing of its entry into the Leased Premises with Lessee.

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 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.

17. **SUBLEASE.** The Lessee covenants and agrees not to encumber or assign this Lease or sublet all or any part of the Leased Premises without the written consent of the Lessor. In the event of a sublease, Lessee and any guarantors shall remain liable on this Lease for the duration of the term.

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, and Lessee shall pay a base monthly rent equal to 150% of base rent at the time of expiration. Acceptance by the Lessor of rent after such termination shall not constitute a renewal of this Lease or a consent to such occupancy, not 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 subordinate 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 lines of any such mortgages or deeds of trust as may be requested by Lessor, at no cost to Lessee and so long as the same do not prejudice Lessee's rights hereunder. Any such instrument shall provide that 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 purchases at such foreclosure sale or such purchaser's successors in title.

22. **INTENTIONALLY OMITTED.**

23. **COMPREHENSIVE GENERAL LIABILITY INSURANCE PRIOR TO COMMENCEMENT OF LEASE TERM.** Lessee, prior to the commencement of the term of this Lease, shall obtain and keep in force, at its expense, for the term of this Lease and any extension thereof, comprehensive general liability insurance with minimum limits of liability in respect to bodily injury of One Million and 00/100 Dollars (\$1,000,000.) One Million and 00/100 Dollars (\$1,000,000) for each person and One Million and 00/100 Dollars (\$1,000,000) for each accident or occurrence, and in respect to the property damage, Five Hundred Thousand and 00/100 (\$500,000) for each occurrence. Said policy or policies shall be issued by an insurance company and in form satisfactory to Lessor; shall name Lessor and Lessee as named insured; shall cover the Leased Premises, including any sidewalks running the width in front of the Leased Premises; shall cover contractual agreements; and shall provide for at least thirty (30) day's notice, by certified mail, return receipt requested, to Lessor before cancellation, termination or change of such insurance. A copy of said policy or policies, or a certificate thereof, and any renewals thereof, shall be delivered to and remain in the possession of Lessor.

Lessor agrees that in lieu of obtaining a commercial insurance policy in the limits set forth herein, Lessee may self-insure for any insurance coverage it is required to maintain pursuant to this Lease.

24. **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 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.

25. **DEFAULT.** In the event that 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 five (5) 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 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 others concurrently or thereafter.

Lessee shall pay a late charge ("Additional Rent") equal to ten percent (10%) on any rent installment or additional charge when paid more than five (5) days after due date thereof.

26. **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 the unavoidable casualty excepted. All installations, repairs, restorations and replacements shall be equal in quality to the original work.

27. **LESSOR'S REPAIRS.** Lessor shall, at its own costs and expense, make such repairs, alterations, and replacements of the building structure, common areas, roof, HVAC, plumbing, and electrical lines, as shall be reasonably necessary for Lessee's occupancy of, and conduct of business in, the Leased Premises, 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. 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.

28. **INTENTIONALLY OMITTED.**

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, marked Exhibit A and to comply with such alterations, additions and modifications thereof as may from time-to-time 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**

- "Exhibit A" - Rules and Regulations
- "Exhibit B" – Floor Plans for Buildings 5 and 6

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

[SIGNATURE PAGE FOLLOWS]

LESSEE: CITY OF NEWPORT NEWS, VIRGINIA

By: _____
Cynthia D. Rohlif, City Manager

Date: _____

Approved as to form:

Attest:

City Attorney

City Clerk

LESSOR: PCT, LLC

By: _____

Date: _____

EXHIBIT "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 property in the best possible condition. In an effort to maintain the property, the Lessor asks your cooperation in observing the following rules. The leased property and all common areas shall be used for customary office purposes and in such a manner as to not unreasonably interfere with the operation and use of the facilities by other tenants. Any expenses 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 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, offices or boards of the city, county or state having jurisdiction over 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 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 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. When office is not in use, thermostat should be set below 62 degrees in winter and above 78 degrees in summer. However, when outside temperatures are at or below freezing level in the winter, thermostats should not be set below 62 degrees due to the risk of water pipes freezing over and bursting.

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 extended position at all times.

D. No additional locks shall be placed upon any doors of the premises without prior approval from the Lessor, except for locks necessary to maintain security and/or confidentiality in accordance with Lessee's business practices. Lessor shall furnish to Lessee keys to the premises, 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 premises. All duplicate keys 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. Visitor Parking 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 antenna is 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. Lessee and its employees, clients, and guests shall not loiter and/or smoke in these common areas.

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 low space and entrance to it is not permitted.

J. 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 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.

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

L. Lessee is required to provide evidence of insurance adequate to cover all Lessee liabilities as stipulated in Paragraph 23 of the Lease.

M. Pets are not allowed to be kept in the office at any time.

LESSEE: CITY OF NEWPORT NEWS, VIRGINIA

By: _____

Date: _____

LESSOR: PCT, LLC

By: _____

Date: _____

EXHIBIT B
Building 5 Buildout Plan and Office Layout
Approximately 10,000 square feet

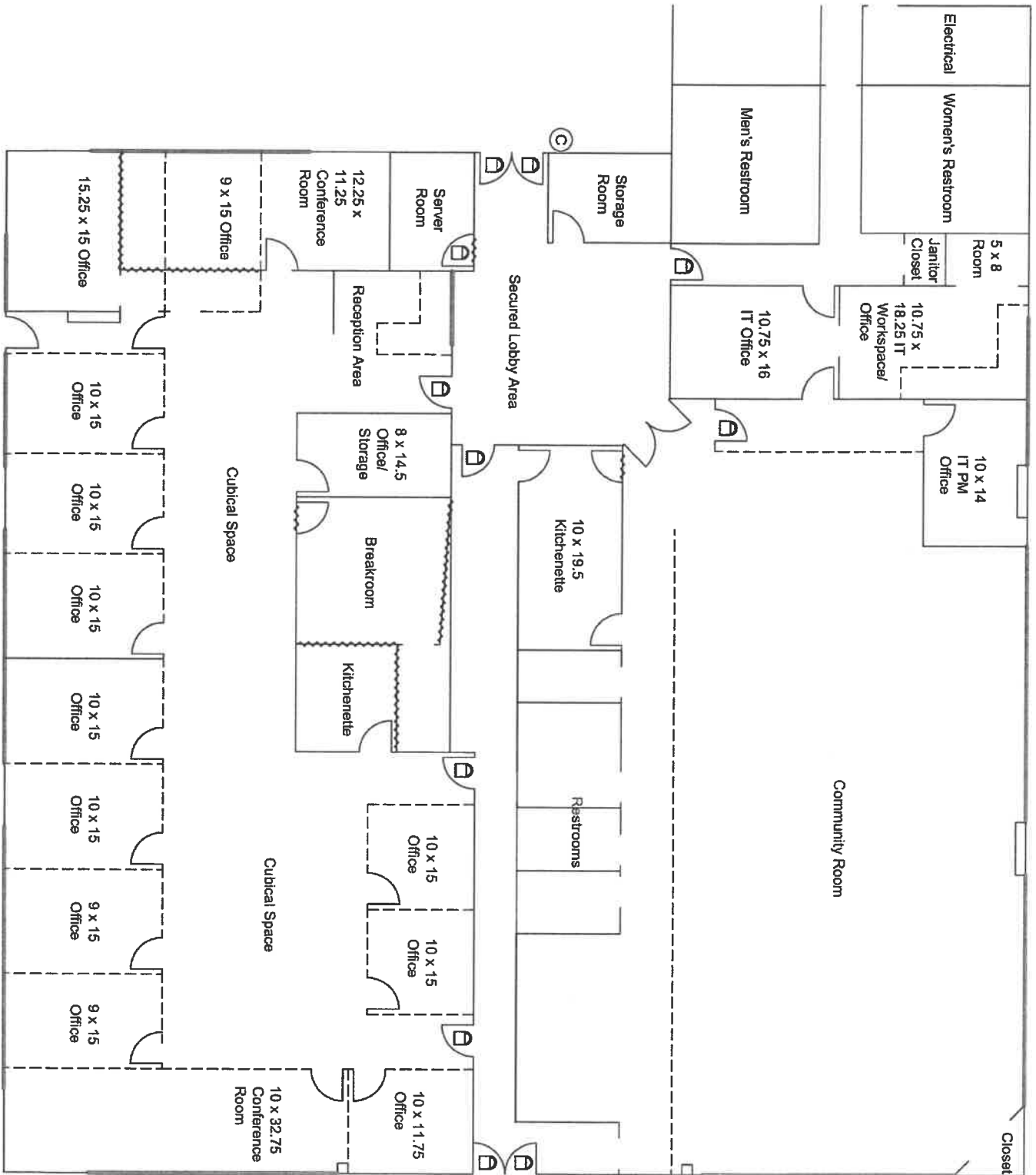
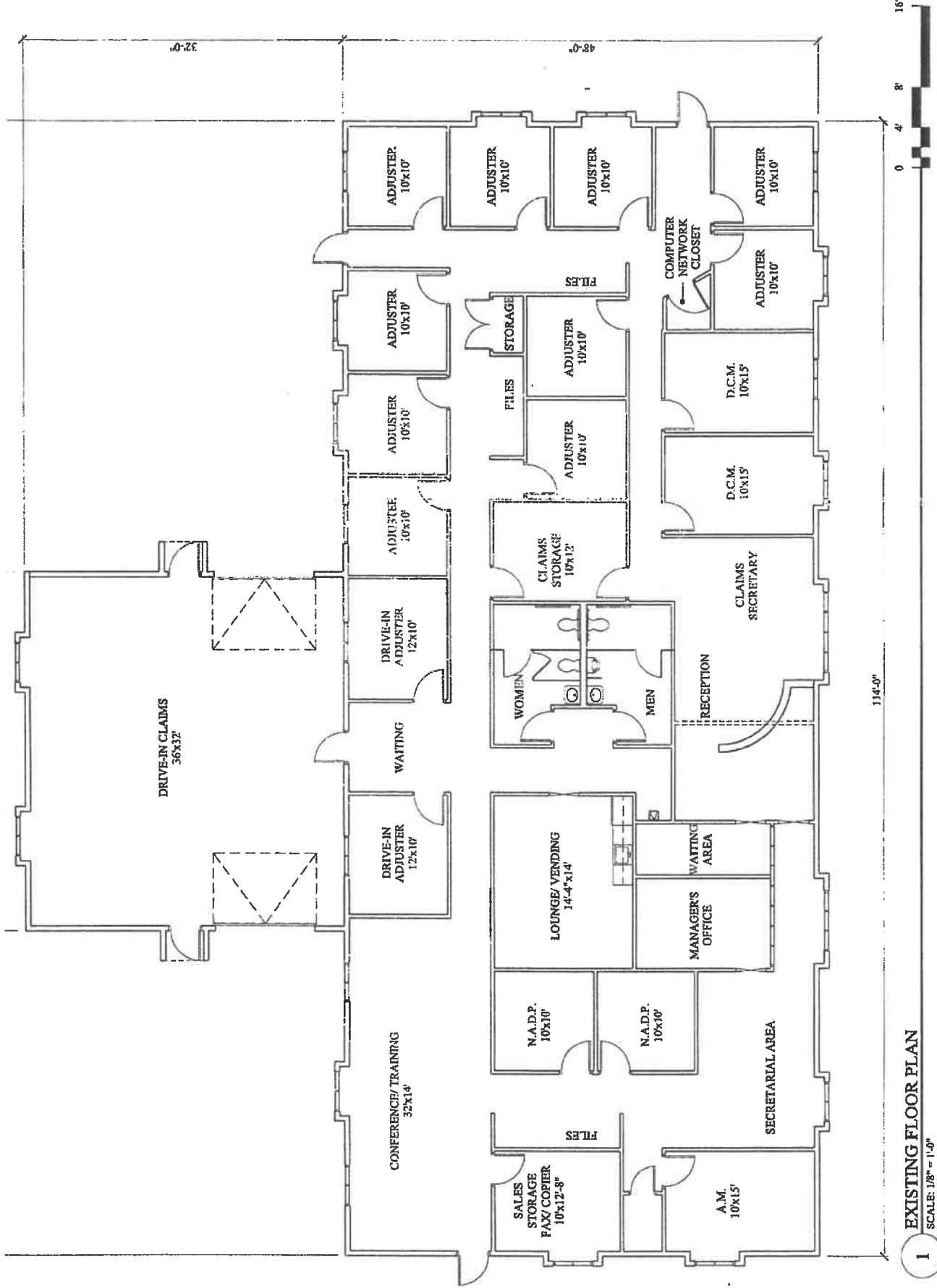


EXHIBIT B

Building 6 Floorplan



1 EXISTING FLOOR PLAN

This drawing is the property of CADOperators.com, considered proprietary, and shall not be reproduced, copied, lent or disposed of directly or indirectly. It shall not be used for any other purpose than for which it was specifically furnished, except by written permission of CADOperat