



CITY OF CHARLESTON West Virginia



Council Member – 12th WARD

Joseph Jenkins
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Charleston, West Virginia 25303
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joseph.jenkins@cityofcharleston.org

Finance Committee, Chair
Parking Committee, Chair
Ordinance and Rules Committee

AGENDA FINANCE COMMITTEE MEETING

Monday, May 19, 2025

6:30 PM

AV ROOM #308, CITY HALL, CHARLESTON, WV

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- I. **PARKING IN THE SHANKLIN GARAGE WILL BE AVAILABLE TO THE PUBLIC – FOLLOW POSTED SIGNS**
- II. **DISCUSSION:**
 - a. Approval of Previous Minutes 5-5-2025
- III. **RESOLUTIONS:**
 - a. Resolution No. 25-043 - Authorizing approval of Amendment No. 7 of the FY 2024-2025 General Fund Budget.
 - b. Resolution No. 25-044 - Authorizing the Mayor or City Manager to purchase 73 sets of turnout gear for the Charleston Fire Department from Witmer Public Safety for the purpose of supplying a second set of turnout gear for Charleston firefighters.
 - c. Resolution No. 25-045 - Authorizing the Mayor or City Manager to purchase a backhoe from Green's Equipment Group for the Refuse Department.
 - d. Resolution No. 25-046 - Authorizing the Mayor or City Manager to enter into a lease agreement with the Charleston-Kanawha Housing Authority for property adjacent to Charleston Fire Station 8 to establish a non-permanent training facility.
 - e. Resolution No. 25-047 - Authorizing settlement of a pending disputed claim against the City, by Dutch Miller – Subaru.

***Meetings may be recorded and broadcast via internet <https://charlestonwv.civicclerk.com>**

MINUTES
FINANCE COMMITTEE MEETING
6:30 P.M., MAY 5, 2025
AV ROOM #308, CITY HALL

Joseph Jenkins Chair, called the meeting of the Charleston City Council Committee on Finance to order at 6:30 p.m., May 5, 2025.

A silent roll was taken by the Clerk and a quorum was established. The following committee members were present:

Joseph Jenkins, Chair
Brent Burton, Vice Chair
Becky Ceperley
Mary Beth Hoover
Larry Moore
Shawn Taylor

Absent:
Chad Robinson

Other Councilmembers present:
Chelsea Steelhammer
Harper Gardner
Joe Solomon

I. DISCUSSION:

a. Approval of Previous Minutes - Councilmember Burton asked for unanimous consent to dispense with the reading of the minutes for the March 21, 2025 and March 15, 2025 meetings and that they be approved as distributed. There were no objections, and the minutes were approved.

II. RESOLUTIONS:

- a. Resolution No. 25-039 – Authorizing the Mayor or City Manager to purchase a 2025 Kenworth T380 Dump Truck from Worldwide Equipment for the Charleston Street Department in the amount of \$179,936.00 pursuant to a competitively sourced contract.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to purchase a 2025 Kenworth T380 Dump Truck from Worldwide Equipment for the Charleston Street Department in the amount of \$179,936.00 pursuant to a competitively sourced contract.

City Manager Ben Mishoe added that the purchase is a regularly scheduled replacement that has been budgeted for.

Councilmember Hoover added that the trucks can also be used as salt trucks during winter months.

From the audience, Councilmember Gardner confirmed that the price included the listed upgrades.

Councilmember Burton moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 25-039 approved.

- b. Resolution No. 25-040 – Authorizing the Mayor or City Manager to enter into an agreement with Casto Technical Services, Inc. in the estimated amount of \$70,813.00 to upgrade HVAC System Controls system for 601 Morris Street, pursuant to a competitive bid process that included an estimated number of labor hours from each bidder.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to enter into an agreement with Casto Technical Services, Inc. in the estimated amount of \$70,813.00 to upgrade HVAC System Controls system for 601 Morris Street, pursuant to a competitive bid process

Mishoe added that the purchase will replace a 20-year old computer system that controls the HVAC for the entire building.

Councilmember Burton moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 25-040 approved.

- c. Resolution No. 25-041 – Approving the proposed Fiscal Year 2025-2026 Coliseum and Convention Center budget as indicated within the attached document.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the proposed Fiscal Year 2025-2026 Coliseum and Convention Center budget as indicated within the attached document is approved.

Mishoe added that the subsidy to the Convention Center has been significantly reduced.

Councilmember Jenkins confirmed that the closure of the Municipal Auditorium resulted in approximately \$100,000 of loss.

Councilmember Burton moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 25-041 approved.

- d. Resolution No. 25-042 – Authorizing the Mayor or City Manager to enter into a one year contract renewal with UKG Kronos Systems LLC in the amount of \$54,216 for migrating of data and TeleStaff timekeeping software used by Charleston Police Department and Charleston Fire Department.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to enter into a one year contract renewal with UKG Kronos Systems LLC in the amount of \$54,216 for migrating of data and TeleStaff timekeeping software used by Charleston Police Department and Charleston Fire Department.

Mishoe added that that system has been in use for a long time. The City is hopeful that they will be able to migrate to the new Enterprise system soon.

Councilmember Burton moved to approve the Resolution. With members present recorded thereon as voting unanimously in the affirmative, Chairperson Jenkins declared Resolution No. 25-042 approved.

Councilmember Burton motioned to adjourn the meeting.
Meeting adjourned.

Resolution No. 25-043

Introduced in Council:

Adopted by Council:

May 19, 2025

Introduced by:

Referred to:

Joseph Jenkins

Finance

- 1 Resolution No. 25-043 - Authorizing approval of Amendment No. 7 of the FY 2024-2025 General
- 2 Fund Budget as indicated on the attached list of accounts.
- 3
- 4 Be it Resolved by the Council of the City of Charleston, West Virginia:
- 5
- 6 That Amendment No. 7 of the FY 2024-2025 General Fund Budget as indicated on the attached
- 7 list of accounts is approved.

General Fund FY 2024-2025 Budget Amendment No. 7 - May 19, 2025

Revenues and Fund Balances

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
1001 00 00000 000 000 438600	Revenue	Insurance Claims	50,000	50,319	100,319
Net Increase/(Decrease) to Revenues				50,319	

Expenditures

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
1001 10 69900 000 000 559800	Contingency	Contingency	217,429	(66,658)	150,771
1001 80 97800 C15 000 645900	Capital Outlay - Health and Sanitation	Refuse - Vehicles and Equipment	1,413,725	116,977	1,530,702
Net Increase/(Decrease) to Expenditures				50,319	

Description:

To recognize revenue from insurance claims and allocate from Contingency for the replacement of a backhoe for the Refuse Department due to an accident.

Revenues and Fund Balances

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
1001 00 00000 000 000 438600	Revenue	Insurance Claims	100,319	83,333	183,652
Net Increase/(Decrease) to Revenues				83,333	

Expenditures

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
1001 10 69900 000 000 559800	Contingency	Contingency	150,771	(136,667)	14,104
1001 10 41700 000 000 522300	City Attorney	Professional Services	200,000	(180,000)	20,000
1001 10 41700 000 000 522900	City Attorney	Claims & Damages	500,000	400,000	900,000
Net Increase/(Decrease) to Expenditures				83,333	

Description:

To recognize revenue from insurance claims and allocate from Contingency and Professional Services for the Claims & Damages budget in the City Attorney's Office.

Revenues and Fund Balances

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
1001 00 00000 000 000 436800	Revenue	Contributions from Others	125,000	25,000	150,000
Net Increase/(Decrease) to Revenues				25,000	

Expenditures

Account No.	Department	Account Description	Current Amount	Increase/ (Decrease)	Amended Amount
1001 80 97900 C17 000 645900	Capital Outlay - Culture & Recreation	Parks & Rec - Vehicles and Equipment	375,500	25,000	400,500
Net Increase/(Decrease) to Expenditures				25,000	

Description:

To recognize distribution from WV Attorney General Lipitor settlement agreement and allocate it to purchasing additional playground equipment in community parks, including Oakmont Park

Reportable: To maintain compliance with the budgetary guidelines of the State of West Virginia.

Resolution No. 25-044

Introduced in Council:

May 19, 2025

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 25-044 – Authorizing the Mayor or City Manager to purchase seventy-three (73) sets of turnout gear for the Charleston Fire Department from Witmer Public Safety in the amount of \$249,295.00 pursuant to a competitively sourced contract for the purpose of supplying a second set of turnout gear for Charleston firefighters.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to purchase seventy-three (73) sets of turnout gear for the Charleston Fire Department from Witmer Public Safety in the amount of \$249,295.00 pursuant to a competitively sourced contract for the purpose of supplying a second set of turnout gear for Charleston firefighters.



CITY OF CHARLESTON
Purchase Request

INSTRUCTIONS: This form must be submitted to the City Manager's Office for any purchase of materials or supplies costing **\$5,000 or more**. A minimum of 3 quotes is required for this form.

Date: 5/9/2025

To: CITY MANAGER,

I request permission to purchase the following materials and/or supplies: _____

73 sets of turnout gear

Purchase justification: 2nd set of gear for personnel
(purchasing with Sourcewell contract)

If approved, the total purchase price will be: \$249,295.00

(Check One)

- ☐ The price is less than the \$25,000 permitted for purchases without advertising for bids and needing approval from City Council. I have not purposefully split the purchase request to keep the purchase under the \$25,000 threshold and have not favored a particular vendor. I have not shared competitive information with any vendor(s).
- ☐ The proposed vendor is a sole source provider for the materials/supplies requested. (Skip to **ITEM A** on page 2.)

I have contacted the following responsible vendors and have attached their written quotes for the requested item(s): (Minimum of 3 Quotes Required)

- | | | |
|----|-----------------------------|-----------------------------------|
| 1. | <u>Witmer Public Safety</u> | Price Quote: \$ <u>249,295.00</u> |
| 2. | _____ | Price Quote: \$ _____ |
| 3. | _____ | Price Quote: \$ _____ |
| 4. | _____ | Price Quote: \$ _____ |
| 5. | _____ | Price Quote: \$ _____ |

The apparent low-bid vendor *meeting specifications* is: Witmer Public Safety

AND

- ☒ The low-bid vendor is not delinquent on any financial obligations owed to the City of Charleston according to the City Collector's records, and I recommend authorizing the purchase through the low-bid vendor.

OR

- ☐ I recommend not contracting with the lowest bidder meeting specifications and instead recommend contracting with _____ because:

Additionally, the recommended vendor is not delinquent on any financial obligations owed to the City of Charleston according to the City Collector's records.

ITEM A (For Sole Source Procurements ONLY)

Explain what is unique about this vendor/brand and why your department must purchase this product:

Identify at least 1 independent third party who has verified the vendor is a sole source for the item(s) requested to be purchased, and submit his/her written opinion regarding the vendor's sole source status:

(Name & Phone Number) _____

REQUESTOR'S DECLARATION

I declare that I have fully complied with the letter and intent of the City Code as it pertains to procurement and have exercised reasonable precaution to procure the item(s) requested above at the lowest price, consistent with good service and quality.

I also declare that I have no personal or business relationship with the listed vendor(s) that would be considered a conflict of interest, except as follows:

(List Actual, Potential, or Perceived Conflicts of Interest) _____

Request Submitted By: Bernice A. Freas for CFD Department: City Manager's Office

Is this purchase being paid with grant funds? ☐ Yes ☒ No

Funds Approval: _____ Date: _____
Authorized Financial Officer

Account Number: 70600000 534500

City Manager Approval: _____ Date: _____

Date: 5/8/2025 **Purchase Order #:** _____

Vendor: Witmer V10403 **Phone #:** 1-276-252-8141

Contact: James Wolfe **Fax:** _____

Address: _____
(Street, City, State, Zip)

Quantity	Description	Unit Price	Total Price
73	73 sets of LION V-Force Structural FF Gear	3,415.00	249,295.00
		TOTAL	249,295.00

Purpose of Request: To purchase a second set of turn out gear for 73 people.

Deputy/Administrative Chief: [Signature] Date: 5-8-25
☐ Denied ☒ Approved

Fire Chief: _____ **Date:** _____

☐ Denied ☐ Approved

Quote#	QUO244285
Date	05/06/2025
Exp. Date	06/06/2025

Bill To:

City of Charleston Fire
Department
808 Virginia St W
Charleston, WV 25302-1820
United States

Ship To:

City of Charleston Fire
Department
808 Virginia St W
Charleston, WV 25302-1820
United States

LION V-Force TOG

ID	Name	Ordered By	Terms	Sales Rep	Shipping Method
1936	City of Charleston Fire Department	Justin Easter	Net 30	James Wolfe	Ground

#	Item Name	Description	Quantity	Unit Price	Amount
1	TARIFF-NOTICE	Pricing is subject to change based on applicable tariffs, duties, or other regulatory actions beyond our control. Any adjustments will be communicated as soon as possible. Please reflect acceptance of these potential tariff-related pricing adjustments on your purchase order.		0.00	0.00
2	Description	Witmer Public Safety Group Sourcewell Contract Number 010424-LIO for LION Products.		0.00	0.00
		City of Charleston Fire Department Sourcewell Account Number 2150			
3	LION-CHARLESTON-CVB	Lion V-Force Bi-Swing Coat, 6.5oz Black Armor AP, K4 Traditional Liner, Charleston Fire Department, WV per PSGQ29440-B List Price: \$4,319.00 Sourcewell Price: \$2,807.45	1	1,885.00	1,885.00
4	LION-CHARLESTON-PVF	Lion V-Force Pant, 6.5oz Black Armor AP, K4 Traditional Liner, Suspenders, Charleston Fire Department, WV per PSGQ29440-B List Price: \$3,321.00 Sourcewell Price: \$2,158.65	1	1,530.00	1,530.00



101 Independence Way
Coatesville, PA 19320
www.wpsginc.com
jwolfe@thefirestore.com
(276) 252-8141

Quote

Quote#	QUO244285
Date	05/06/2025
Exp. Date	06/06/2025

ACCEPTANCE OF QUOTATION

The above prices, specifications, and conditions are satisfactory and are hereby accepted.

Freight charges are estimated at the time of quote. Applicable freight costs will apply at time of shipment.

Quotation is valid until Jun 06, 2025

Signature: _____ Date: _____

Subtotal:	3,415.00
Discount:	0.00
Tax Total:	0.00
Freight:	0.00
Total:	3,415.00

Resolution No. 25-045

Introduced in Council:

May 19, 2025

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 25-045 – Authorizing the Mayor or City Manager to purchase a New Holland B95D Extend-A-Hoe backhoe with thumb and 4-in-1 bucket from Green’s Equipment Group for the Refuse Department at a total cost of \$116,977.00 pursuant to a competitively sourced contract.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to purchase a New Holland B95D Extend-A-Hoe backhoe with thumb and 4-in-1 bucket from Green’s Equipment Group for the Refuse Department at a total cost of \$116,977.00 pursuant to a competitively sourced contract.



CITY OF CHARLESTON
Purchase Request

INSTRUCTIONS: This form must be submitted to the City Manager's Office for any purchase of materials or supplies costing **\$5,000 or more**. A minimum of 3 quotes is required for this form.

Date: 5/6/2025

To: CITY MANAGER,

I request permission to purchase the following materials and/or supplies: A new New Holland B95D

Extend-A-Hoe Backhoe with Thumb and 4 in 1 Bucket. Purchased off Sourcewell Contract 11723-CNH-2 through

Green's Equipment Group

Purchase justification: This is replacing Refuse Backhoe that was involved in an accident.

If approved, the total purchase price will be: \$116,977.00

(Check One)

☐ The price is less than the \$25,000 permitted for purchases without advertising for bids and needing approval from City Council. I have not purposefully split the purchase request to keep the purchase under the \$25,000 threshold and have not favored a particular vendor. I have not shared competitive information with any vendor(s).

☐ The proposed vendor is a sole source provider for the materials/supplies requested. (Skip to **ITEM A** on page 2.)

I have contacted the following responsible vendors and have attached their written quotes for the requested item(s): (Minimum of 3 Quotes Required)

- | | | |
|----|--------------------------------|-----------------------------------|
| 1. | <u>Green's Equipment Group</u> | Price Quote: \$ <u>116,977.00</u> |
| 2. | <u></u> | Price Quote: \$ <u></u> |
| 3. | <u></u> | Price Quote: \$ <u></u> |
| 4. | <u></u> | Price Quote: \$ <u></u> |
| 5. | <u></u> | Price Quote: \$ <u></u> |

The apparent low-bid vendor *meeting specifications* is:

AND

☐ The low-bid vendor is not delinquent on any financial obligations owed to the City of Charleston according to the City Collector's records, and I recommend authorizing the purchase through the low-bid vendor.

OR

☒ I recommend not contracting with the lowest bidder meeting specifications and instead recommend contracting with Green's Equipment Group because:

This is getting purchased off the Sourcewell Contract.

Sourcewell Contract number 11723-CNH-2

Additionally, the recommended vendor is not delinquent on any financial obligations owed to the City of Charleston according to the City Collector's records.

ITEM A (For Sole Source Procurements ONLY)

Explain what is unique about this vendor/brand and why your department must purchase this product:

Identify at least 1 independent third party who has verified the vendor is a sole source for the item(s) requested to be purchased, and submit his/her written opinion regarding the vendor's sole source status:

(Name & Phone Number)

REQUESTOR'S DECLARATION

I declare that I have fully complied with the letter and intent of the City Code as it pertains to procurement and have exercised reasonable precaution to procure the item(s) requested above at the lowest price, consistent with good service and quality.

I also declare that I have no personal or business relationship with the listed vendor(s) that would be considered a conflict of interest, except as follows:

(List Actual, Potential, or Perceived Conflicts of Interest) _____

Request Submitted By: Kevin Oxley Department: Equipment Maintenance

Is this purchase being paid with grant funds? ☐ Yes ☒ No

Funds Approval: _____ Date: _____
Authorized Financial Officer

Account Number: _____

City Manager Approval: _____ Date: _____

Resolution No. 25-046

Introduced in Council:

May 19, 2025

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance

Resolution No. 25-046 – Authorizing the Mayor or City Manager to enter into a lease agreement with the Charleston-Kanawha Housing Authority for property adjacent to Charleston Fire Station 8, where the intended purpose is for Charleston Fire Department to establish a non-permanent training facility and where the term is one-year with optional renewals and no cash consideration will be paid by the City.

Be it Resolved by the Council of the City of Charleston, West Virginia:

That the Mayor or City Manager is authorized to enter into a lease agreement with the Charleston-Kanawha Housing Authority for property adjacent to Charleston Fire Station 8, where the intended purpose is for Charleston Fire Department to establish a non-permanent training facility and where the term is one-year with optional renewals and no cash consideration will be paid by the City.

Charleston-Kanawha Housing Authority
and
City of Charleston, West Virginia

GROUND LEASE AGREEMENT
Vacant Land at/near Orchard Manor Development

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GROUND LEASE AGREEMENT

This Ground Lease Agreement (the “Lease Agreement”), is entered into as of the ____ day of _____ 2025, by and between **CHARLESTON-KANAWHA HOUSING AUTHORITY** (f/k/a Housing Authority of Charleston), a West Virginia Public Housing Authority, (“CKHA” or “Lessor”) and the **CITY OF CHARLESTON**, a West Virginia municipal corporation (“City” or “Lessee”).

RECITALS

WHEREAS, CKHA is a W.Va. Public Housing Authority operating pursuant to W.Va. Code §16-15-1 *et seq.*, is a political subdivision of the state of West Virginia, and is authorized to act as an agent of the United States Department of Housing and Development (“HUD”), subject to the requirements and limitations imposed by HUD and applicable federal law; and

WHEREAS, City is a W.Va. municipal corporation and political subdivision that, among other things, provides essential Fire and EMS services to citizens and property within Charleston, including to CKHA, its public housing residents, staff, and property; and

WHEREAS, for many years the City, by and through its Charleston Fire Department (“CFD”), has provided essential Fire/EMS services to CKHA, its public housing residents, staff, and property, and acts as CKHA’s primary partner for purposes of CKHA’s Disaster Readiness, Response, and Recovery & Continuity of Operations Plan; and

WHEREAS, in the early 2000s, with HUD approval, CKHA conveyed vacant and unused real property to City for the purpose of the CFD construction and operation of Fire Station #8, located in close proximity to CKHA’s Orchard Manor Public Housing Development (“Orchard Manor”); and

WHEREAS, since the time Fire Station #8 became operational, it has not interfered, disturbed, or adversely affected nearby Orchard Manor, and instead has provided timely essential fire, safety, and emergency medical services and protection to CKHA, its public housing tenants, staff and property.

WHEREAS, CKHA currently owns less than an acre of excess real property in and around Orchard Manor, located behind CKHA’s maintenance building and adjacent to Fire Station No. 8, that is vacant, unused, and undeveloped land for which CKHA has no current use or anticipated future use; and

WHEREAS, the City and CFD have an interest in using said vacant, unused, and undeveloped land to develop and operate a temporary training facility near Fire Station #8; and

WHEREAS, the City’s proposed development of the vacant/unused land would include paving, leveling, and graveling by City to improve access to/from the land and would facilitate the intended use, and any potential future use(s), of the land; and

WHEREAS, the proposed new temporary training facility, located in close proximity to Fire Station #8, will enhance the skills, preparedness, and response time of CFD Firefighters & EMS personnel by providing a specialized site to perform safe execution of drills and hands-on training exercises involving realistic scenarios to gain practical experience in handling disasters and emergencies, including, but not limited to, fire suppression scenarios, search and rescue operations, ventilation techniques, hazardous materials response, and structural collapse scenarios, all of which are

essential emergency services that are provided to the citizens of Charleston, including CKHA, its public housing residents, staff, and property, whenever requested or required.

WHEREAS, pursuant to W.Va. Code §§16-5-7(a)(8) & 16-15-18(a)(3), and subject only to applicable federal requirements and limitations, CKHA has plenary power to lease or convey property to City for the requested public use, and pursuant to W.Va. Code §1-5-3, said lease or conveyance may be based upon such terms and conditions agreed upon by and between CKHA and City, and without monetary consideration; and

WHEREAS, after due diligence, CKHA has determined that: CKHA has no current or future intended use for the vacant/undeveloped land; the City has a current and essential need for use of the vacant/undeveloped land that will benefit the public and CKHA, its public housing residents, staff, and property; the proposed development and temporary use of the vacant/undeveloped land by the City is reasonable in scope and manner, will not adversely impact the operation of Orchard Manor as public housing, and will benefit and protect, and not negatively impact, the health and safety of Orchard Manor residents and the physical property located at Orchard Manor; and

WHEREAS, for the reasons stated herein, and subject to applicable federal requirements and limitations, CKHA and City desire to enter into this Lease Agreement under the terms and conditions set forth herein.

WHEREAS, the Parties acknowledge and agree that the Recitals set forth hereinabove are true and accurate statements, are contractual in nature, and are intended by the Parties to be material to this Lease Agreement and not mere recitals.

NOW THEREFORE, as permitted by law and in consideration of the mutual benefits set forth herein, the value of which the Parties hereby acknowledge, CKHA and City agree as follows:

ARTICLE 1. THE LEASE

A. Lease; Description of Land; Consideration

Subject to the terms, conditions, and limitations set forth herein, Lessor hereby leases to Lessee approximately 0.61 acres of vacant land, located behind CKHA's maintenance building servicing Orchard Manor and adjacent to CFD Fire Station No. 8, as is more particularly detailed and depicted in Exhibit A hereto (the "Land").

The Parties agree that the Lease Agreement satisfies the conditions of W.Va. Code §1-5-3 as set forth hereinafter: (1) CKHA has no current or future anticipated use for the Land; (2) City has an essential need to provide special training to its Fire and EMS first responders, the location of the Land in close proximity to Fire Station #8 is a convenient and strategic location for the temporary training; and (3) Providing the additional training will result in better trained Fire and EMS first responders for the benefit of the health, welfare, and safety of the public, including CKHA, its public housing residents, staff, and property located within the City. As a result, and due to the public, public housing, and other substantial benefits set forth herein, City shall not be required to pay any rent or monetary consideration to CKHA for purposes of the Lease Agreement.

B. Effective Date; Term; Termination

1. *Effective Date.* This Lease Agreement shall become effective upon the completion of all of the following: (1) Approval of the Lease Agreement by Resolution of the Governing Body of each Party; (2) Execution of this Lease Agreement by an authorized representative of each Party; and (3) Approval of this Lease Agreement by HUD through its Field Office or other appropriate HUD personnel as may be required by HUD. The Parties will note the date on which all of these requirements have been completed, or such later date as mutually agreed by the Parties, at the top of this Lease Agreement as the Effective Date of this Lease Agreement.

2. *Term.* The term of this Lease Agreement shall be for a period of one (1) year, commencing on the Effective Date and expiring at midnight of its first anniversary. City may renew this Lease Agreement for additional one (1) year terms thereafter, upon written request to CKHA on or before the expiration of the initial, or any renewal, term. If City does not timely request renewal but continues to occupy the Land for the essential public purposes set forth in this Lease Agreement, the Parties will consider City's occupancy and action to constitute City's request for renewal. Subject to HUD requirements and unforeseen circumstances, it is the intent of the Parties that this Lease Agreement will provide City with the ability to conduct and provide Fire/EMS training on the Land for so long as the Parties deem such training to be beneficial to City, the public, and CKHA. Notwithstanding, City acknowledges and agrees that, pursuant to HUD requirements, CKHA retains a "genuine choice" as to whether to agree to any term renewal or whether to terminate this Lease Agreement for cause or convenience as set forth herein.

3. *Expiration; Termination; Holdover.* Should either Party determine and communicate in writing that this Lease Agreement will not be continued at the expiration of the initial, or any renewal, term, then this lease will expire and shall no longer be binding upon either Party, subject to satisfaction of any continuing obligations set forth herein.

This Lease may be terminated by the Parties as follows:

- (a) By City/Lessee: City may Terminate this Lease Agreement at any time, with or without cause, upon 30-days written notice to CKHA.
- (b) By CKHA/Lessor:
 - (i) For Cause: CKHA may terminate this Lease for cause upon 30-days written notice to City. If the cause for termination is the result of an action or determination by HUD directed to CKHA involving the Land, then the Lease Agreement will terminate after the 30-day notice or at such later time as may be permitted by HUD and mutually agreeable by the Parties. If the cause for the termination is due to a default by City of the terms and conditions of this Lease Agreement, City will be provided with a reasonable opportunity to cure any such default, not to exceed 90 days from the date of the notice. Provided City cures any default to the reasonable satisfaction of CKHA, the Notice of termination will be rescinded.
 - (ii) For Convenience: CKHA may terminate this Lease Agreement for convenience upon 180-days written notice to City. Notwithstanding, due to the benefits to the public and to CKHA's public housing residents, staff, and property resulting from this Lease Agreement, CKHA has no intent to terminate this Lease Agreement for convenience unless it is later determined that CKHA has a necessary, specific, and compelling need for use of the Land for the benefit of CKHA and/or its public housing residents.

Any holding over by Lessee following expiration, nonrenewal or termination of this Lease Agreement shall not be construed as renewing or extending this Lease Agreement in any manner whatsoever; but it may, at the option of Lessor, be construed as creating a tenancy from month to month subject to the same terms and conditions set forth herein insofar as applicable, terminable by either party on thirty (30) days written notice. In the event of a holdover, Lessee shall be subject to all the conditions of this Lease excepting the term.

ARTICLE 2. REPRESENTATIONS AND WARRANTIES; REPRESENTATIONS AND CERTIFICATIONS FOR PURPOSES OF 24 CFR 970 *ET SEQ.*

The Parties, or either of them as set forth herein, represent and warrant the following as of the date of approval and execution of this Lease Agreement:

A. Land As Is

Lessee hereby acknowledges that it or its agents have inspected the Land and Lessee hereby agrees to accept the Land “AS IS, WHERE IS” in its present condition.

B. Authority

The Parties each represent that they are W.Va. political subdivisions with lawful authority to enter into this Lease Agreement and that each of them have the full legal right, power and authority to carry out and consummate all transactions contemplated herein.

C. No Conflict with Other Agreements

The Parties represent that, subject to HUD approval, the execution and delivery of this Lease Agreement and the fulfillment of or compliance with its terms and conditions will not conflict with or constitute a violation or breach of or default under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which either is a party or by which any of either of their properties are otherwise subject or bound.

D. No Litigation

The Parties represent that there is no action, suit, proceeding, inquiry or investigation, before or by any court or federal, state, municipal or other governmental Issuer, pending, or to the knowledge of Lessor or Lessee, after reasonable investigation, threatened, against or affecting Lessor or Lessee or the assets, properties or operations of Lessor or Lessee which, if determined adversely to Lessor or Lessee or its interests, would have a material adverse effect upon this Lease Agreement.

E. 24 CFR §970.1 *et seq* REPRESENTATIONS AND CERTIFICATIONS

CKHA represents and certifies, and City, to the extent required by applicable law, acknowledges the following:

1. *Description of Property.* CKHA certifies that the Land is an approximate 0.61 acres of vacant/unused/undeveloped real property at/near Orchard Manor, as described in more detail in this Lease Agreement and Exhibit A hereto. *See* 24 CFR §970.7(a)(2) & §970.9(b)(3)(i).

2. *Description of the proposed Disposition/Action.* CKHA certifies that this is a Lease Agreement between CKHA and the City to lease land for a non-dwelling/public purpose for a term of 1 year with permitted renewal(s), subject to CKHA's ability to terminate for cause or convenience. See 24 CFR §970.7(a)(3) & §970.3(b)(10).

3. *Timetable.* It is the intent of the Parties that this Lease Agreement will become effective as soon as approved by HUD. See 24 CFR §970.7(a)(4).

4. *Statement justifying proposed Lease Agreement & Satisfying Criteria for HUD approval.* CKHA certifies that: (i) retention/use of the Land by CKHA, compared to the proposed development and use by City, is not in the best interests of CKHA; (ii) the Lease Agreement and proposed use by City are consistent with the goals and Plan of CKHA; (iii) the Lease Agreement will provide for public development of vacant land that is currently a liability and maintenance expense to CKHA, is not revenue generating, and is not necessary or used by CKHA or its residents; and (iv) the proposed development and use will not interfere with the continued operation of Orchard Manor, will eliminate costs and minimize CKHA's exposure and financial risk, will provide significant safety and public health benefits to CKHA, its public housing residents, staff, and property, and will increase the value and potential future use of the Land at no cost to CKHA. As set forth herein, the use of the Land by City is permitted by HUD regulations and is consistent with HUD guidance. See 24 CFR §970.7(a)(5) & §970.17; see also HUD Notice PIH 2017-24.

5. *Reasonable Use and No Adverse Impact.* CKHA certifies, and Lessee acknowledges, that the use by Lessee of the Land that is the subject of the Lease Agreement is reasonable and does not/will not adversely impact the operation of the project as public housing, the health and safety of residents, or the structural integrity or condition of public housing property. See HUD Notice PIH 2017-2424.

6. *CKHA/PHA Control.* CKHA certifies that the uses authorized by the Lease Agreement have been mutually determined by the Parties and approved by CKHA. CKHA certifies, and Lessee agrees, that the Lease Agreement does not authorize Lessee to take/make material unilateral actions/decisions affecting the Land that are not contemplated by the Lease Agreement or approved by CKHA and that Lessee's access/use of the Land shall not jeopardize CKHA's access/use to the extent required by HUD or applicable law. See HUD Notice PIH 2017-2424.

7. *Tenant relocation/consultation/opportunity to purchase requirements.* CKHA certifies that: the Land is vacant/unused property and there are no relocation requirements; no residents will be negatively affected by the Lease Agreement; CKHA has consulted with residents of Orchard Manor about the Lease Agreement and has received and evaluated resident comments prior to approving the Lease Agreement; and the Lease Agreement is exempt from the requirement of offering the Land for sale to any resident organization pursuant to 24 CFR §970.9(b)(3). See also 24 CFR 970.7(a)(7) & §970.9.

8. *Fair Market Value (FMV) of Property and Monetary Consideration.* CKHA certifies that: the FMV of the Land in its current location and undeveloped condition is *de minimus*; monetary consideration as between CKHA and City is not required by state law; and the benefit to CKHA, its residents, staff, and property, outweighs any current value of the unused Land to CKHA. CKHA further certifies that the Lease Agreement satisfies the FMV exception set forth in 24 CFR §970.19(a), which permits CKHA to lease or convey the Land "for less than fair market value [] based on commensurate public benefits to the community, the PHA, or the federal government justifying such an exception." See 24 CFR §970.7(a)(9) & §970.19.

9. *Revenue to/Costs paid by PHA.* CKHA certifies that the Lease Agreement will not result in any costs to CKHA or the use of any HUD funds. Although CKHA will not receive any revenue, the Lease Agreement will result in valuable improvement to the Land, reduced maintenance costs to CKHA and

will minimize CKHA's liability exposure as a result of City's maintenance of the Land and the provision of primary General Liability insurance coverage. *See* 24 CFR 970.7(a)(10); *see also* HUD Notice PIH 2017-2424.

10. *CKHA approval of Lease Agreement.* CKHA certifies that its Board of Commissioners has authorized the Lease Agreement by Resolution approved by majority vote at a lawfully noticed public meeting. *See* 24 CFR §970.7(a)(13).

11. *Consultation with appropriate government officials prior to requesting HUD approval of Land disposition.* CKHA represents, and City acknowledges, that the Lease Agreement is by and between CKHA and the local unit of government that CKHA is required to consult with prior to requesting HUD approval. CKHA further represents, and City acknowledges, that the Lease Agreement is the result of discussions, consultation, and cooperation between CKHA and City, is the subject of consideration and approval by the governing bodies of each entity to become effective, and is supported by the Mayor of the City; all of which individually and collectively satisfy the requirements of 24 CFR §970.7(a)(14)(i) & (ii).

12. *Environmental Review.* CKHA certifies that the environmental review generally imposed by 24 CFR §970.13 is not required because the proposed disposition falls within the exception set forth in 24 CFR §970.3(b)(10) ("This part does not apply to the following...Units of land leased for non-dwelling purposes for one year or less."). *See* 24 CFR §970.7(a)(15), §970.13, & §970.3(b)(10).

13. *Civil Rights Compliance.* CKHA certifies, and City acknowledges, that the Lease Agreement does not/will not violate any remedial civil rights agreement or order and is consistent with all related applicable laws, regulations, and guidelines. *See* 24 CFR 970.7(a)(16); *see also* HUD Notice PIH 2017-2424.

14. *No Recording.* CKHA certifies, and City acknowledges, that the Lease Agreement will not be recorded. *See* HUD Notice PIH 2017-2424

15. *HUD Monitoring and Oversight.* The Parties acknowledge and agree that the Lease Agreement is subject to HUD monitoring and oversight. *See* HUD Notice PIH 2017-2424

ARTICLE 3. COVENANTS

A. Specific Purpose & Use of Land; Limitations

Lessee shall occupy and use the Land only for the lawful purpose of developing and operating a temporary training facility for Fire/EMS first responders, and all uses ancillary or incidental thereto, consistent with the Recitals set forth in this Lease Agreement. Subject to CKHA review and approval, Lessee shall be permitted to install shipping containers and other temporary structures on the Land, shall be permitted to develop and improve the Land, including ingress/egress thereto/therefrom, by paving, leveling, and/or graveling, and shall be permitted to install fencing in or around the Land. Lessee's occupancy and use of the Land shall be in compliance with all applicable laws, statutes, ordinances, and rules, including all applicable HUD regulations and guidelines. Lessee's occupancy and use of the Land during any term of this Lease Agreement will be exclusive, subject to the rights and access afforded, or required to be afforded, to CKHA pursuant to federal law and/or HUD regulations and guidelines.

Lessee acknowledges and agrees that it will not take/make material unilateral actions/decisions affecting the Land that are not reasonably contemplated by the Parties without prior approval by CKHA, and that it will not knowingly commit, or permit the commission of, any use that unreasonably disturbs,

interferes with, or adversely impacts CKHA's operation of Orchard Manor, the health and safety of CKHA's residents, or the structural integrity or condition of CKHA property.

B. Liens; Encumbrances

Lessee shall not mortgage, assign, offer as collateral or otherwise encumber its rights under this Lease Agreement. With the exception of HUD, Lessor disclaims any claim by a third party to any right, title or interest not in accordance with this Lease Agreement.

C. Maintenance of the Land; Installation of Fencing and Other Improvements; Restoration

For so long as this Lease Agreement is in effect, and as between City and CKHA, City agrees to be solely responsible for the maintenance and care of the Land. Such maintenance will be performed in a timely, reasonable, and workmanlike manner and in accordance with applicable laws. City also agrees to perform any maintenance requested by CKHA to the extent such request is reasonable and does not impose an undue or unnecessary burden on Lessee.

All improvements or temporary installations on or around the Land by City or City's agents shall be performed in a timely and workmanlike manner and in accordance with applicable laws. City will coordinate any such improvement or installation with CKHA to minimize any disruption to CKHA or its residents. Prior to beginning any paving, graveling, or installation of fencing, City agrees that it will coordinate with CKHA for approval of the location, placement, and/or installation of such paving, graveling, or fencing. CKHA agrees that it will timely cooperate with City regarding any request for paving, graveling, or installation of fencing, and that it will not unreasonably withhold approval for any reasonable request by City. The costs of any improvements to the Land will be borne solely by City. The Parties agree that for so long as this Lease Agreement is in effect, CKHA shall have no obligation to conduct or pay for any improvements to the Land.

Upon expiration or termination of the Lease Agreement, City agrees, at its sole expense, to clean, remediate to the extent required by this Lease Agreement or applicable law, and restore the condition of the Land to the reasonable satisfaction of CKHA and as may be required by HUD or applicable law. City, at its sole discretion, shall be permitted to remove any temporary fixtures or personal property temporarily installed on the Land during the Lease Agreement. Should City request to leave any temporary fixtures or personal property, including, but not limited to, fencing or temporary structures, in place, the Parties agree to cooperate in good faith to determine whether the requested fixtures/personal property may remain on the Land or must be removed. Notwithstanding, the Parties agree that City shall be required to take any restoration or removal action(s) required by HUD.

D. Assumption of Risk & General Liability; Release; Environmental Liability.

1. *Assumption of Risk and Liability Related to the Land.* With regard to the any condition, defect, and/or hazard involving the Land, City hereby assumes all risk, responsibility, and legal liability for bodily injury to any person, or loss of use or destruction of any property of City or of any third party, including, but not limited to, agents, employees, guests, students, clients, licensees, invitees or customers of City, caused by or arising out of any defects in, hazards on, or conditions of the Land, including City's improvements of the Land, now existing or hereinafter existing, including, without limitation, all areas of use or improvement, walkways, paved areas, paths of ingress/egress, parking areas, temporary structures, and/or fencing located on, adjacent or appurtenant to the Land. This paragraph is intended to encompass liability for all defects to, hazards on, or conditions of the Land,

including City's improvements on the Land, and shall survive termination of the Lease Agreement with regard to any liability arising during the time in which the Lease Agreement was still in effect.

2. *General Liability Related to City's Occupancy, Use, and Operations.* In addition to, and not in lieu of, Art. 3, Section D.1. herein, for so long as this Lease Agreement is in effect, and as between City and CKHA, City agrees to be solely responsible for any and all liability, including, but not limited to, liability for injury to/death of any person or damage to any property, arising from or related to City's development, occupancy, use, training, operations, or other activities of any kind occurring on or about the Land; provided, City shall not be responsible for any liability arising from or related to the intentional or negligent acts or omissions of CKHA, its officers, directors, employees, or agents. The obligations set forth in this paragraph shall survive the termination of the Lease Agreement with regard to any liability arising during the time in which the Lease Agreement was still in effect.

3. *Release.* Upon execution of this Lease Agreement, City hereby forever releases and discharges Lessor, including any person at any time serving as a director, officer, employee, agent or consultant of Lessor, from all claims, liabilities, losses, damages, costs, expenses, suits and judgments of any kind arising out of injury to or death of any person or damage to property in or upon the Land or any violation of any law, ordinance or regulation affecting the Land. Provided, however, City's obligations hereunder shall not apply to death, injury or damage resulting from the intentional or negligent acts or omissions of CKHA, its officers, directors, employees, or agents. The release set forth herein shall survive the termination of the Lease Agreement.

4. *Environmental Liability.* City shall have no liability or responsibility of any kind whatsoever for any hazardous materials present on the Land prior to the Effective Date, which, as between CKHA and City, shall remain the sole liability and obligation of CKHA. As between City and CKHA, and only with regard to any hazardous materials brought onto the Land by City or created by the operations of City, including by its officers, employees, agents, guests, or invitees, after the Effective Date, City shall be solely responsible and liable, at City's expense, for the presence of hazardous materials, and remediation thereof to the extent required by law, and for compliance with any applicable environmental laws related to hazardous materials. For purposes of this Section, "hazardous materials" includes, but is not limited to, petroleum products, mercury, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls or any hazardous, toxic or dangerous waste, substance or material defined as such or defined as a hazardous substance or other similar term by, in, or for the purposes of any federal or state environmental laws. The obligations in this paragraph shall survive the termination of the Lease Agreement with regard to any liability or obligation arising during the time in which the Lease Agreement was still in effect.

5. *Liability Obligations do not Constitute Indemnification.* This Section is intended to clarify each Party's permitted acknowledgement and acceptance of liability obligations with regard to the Land and this Lease Agreement; however, it is not intended to create any indemnity obligation on the part of either Party and shall not be construed as such. For the avoidance of doubt, this Lease Agreement does not require either Party to provide indemnification to the other.

E. Insurance

City covenants and agrees that from and after the Effective Date of this Lease, and for so long as this Lease Agreement is in effect, City shall, at its sole cost and expense: (i) carry and maintain Commercial General Liability insurance in the minimum amount of \$1,000,000.00 and such other insurance policies as may be required to provide sufficient coverage for the obligations set forth in this Lease Agreement; (ii) the insurance policies shall provide primary coverage for the liability obligations

set forth in Art. 3, Section D herein; (iii) the insurance policies shall name CKHA as an additional insured for purposes of this Lease Agreement and the liability obligations set forth herein; and (iv) the insurance policies shall reflect that City is responsible for all deductibles.

F. Taxes

City and Lessor are tax-exempt entities and agree to work together to ensure any taxes assessed on real property and personal property related to the Land are classified as exempt and do not result in any tax obligation of any kind to either Party.

ARTICLE 4. HUD TERMS AND CONDITIONS

The Parties acknowledge and agree that this Lease Agreement is subject to HUD regulations and guidelines and shall be interpreted to give priority to all applicable HUD requirements. To the extent any provision of this Lease Agreement, whether as written or in performance, conflicts with any HUD requirement, including, but not limited to, the requirements set forth herein, the HUD requirement shall control. The Parties agree that the following HUD requirements shall be a material part of this Lease Agreement and shall have priority over any other provision:

A. Conflict Clause. To the extent that any provision of the Lease Agreement is determined to be in conflict with the requirements of the United States Housing Act of 1937 (1937 Act), as amended, federal regulations, and the Annual Contributions Contract (“ACC”), as amended, or other applicable HUD requirements (collectively, “HUD requirements”), such HUD requirements shall control and govern to the extent of any conflict.

B. Indemnification Clause. It is acknowledged and agreed that CKHA has no authority to provide guarantees, indemnifications, rights of set off, or other pledges involving the assets of any Public Housing Project (as that term is defined in the ACC between CKHA and HUD), which includes Orchard Manor Development, or other assets of CKHA, including Housing Choice Voucher (HCV) and any related HUD financed or restricted assets of CKHA. Accordingly, except as approved by HUD in writing, it is acknowledged that there is no legal right of recourse against: (1) any Public Housing Project of CKHA, which includes the Orchard Manor Development; (2) any operating receipts (as the term “operating receipts” is defined in ACC), HCV receipts or Capital or Operating Funds of CKHA; (3) any public housing operating reserves of CKHA reflected in CKHA’s annual operating budget and required under the ACC, or (4) any other asset of CKHA related to the 1937 Act. Should any assets of CKHA be identified at a later date as meeting the criteria set forth above, any guarantees, indemnifications, right of set off, or other pledges involving those assets will be deemed null, void, and unenforceable.

C. Termination Clause. If HUD approves the termination of the Annual Contributions Contract (ACC) at the public housing project and/or the release of the Deed of Trust or Declaration of Restrictive Covenants (DOT/DORC), under Section 18 of the U.S. Housing Act of 1937 or the Rental Assistance Demonstration (RAD) program or any other removal action of HUD’s Special Applications Center, or if HUD determines the Lease Agreement does not comply with federal public housing requirements, including, but not limited to, disposition requirements under 24 CFR part 970, CKHA will terminate the Lease Agreement unless otherwise permitted/directed by HUD.

D. HUD is not a Guarantor. HUD is not a Guarantor of CKHA and is not liable for the actions of CKHA under this Lease Agreement. Any conflicting interpretation of any provision of this Lease Agreement shall be deemed null, void, and unenforceable.

E. No Assignment Rights or Rights of Mortgage or Security Interests. The agreement does not include any assignment rights or rights of mortgage or security interests unless HUD approval under section 30 of the 1937 Act has been obtained in writing.

F. Subordination. The Parties acknowledge and agree that the Lease Agreement is in a subordinate position to the ACC and DOT/DORC related to Orchard Manor and the Land.

ARTICLE 5. MISCELLANEOUS

A. No Claim Against Officer, Agent or Employees

No claim whatsoever shall be made by either Party against any officer, employee or agent of CKHA or City for, or on account of, anything done or omitted in connection with this Lease Agreement.

B. Force Majeure

Neither Party shall be deemed in default with respect to any of the terms, covenants and conditions of this Lease Agreement to the extent such failure to perform as required by the Lease Agreement is the result, in whole or in part, to any strike, lockout, labor trouble, civil disorder, inability to procure materials, failure of power, restrictive governmental laws and regulations, riots, fuel shortages, accidents, casualties, acts of law, acts of God, acts caused directly or indirectly by the other party to this Lease Agreement, or their agents, employees or invitees, or any other cause beyond the commercially reasonable control of the Party who has failed to perform as required by the Lease Agreement.

C. Successors; Binding Effect

This Lease Agreement shall inure to the benefit of, and shall be binding upon, the Parties and their respective personnel, representatives, and successors, subject to the limitations contained herein.

D. No Brokerage Commission

The Parties mutually warrant with one another that no real estate brokers are entitled to a commission as a result of producing this Lease Agreement and that neither party employed or engaged a real estate broker or agent to effectuate this Lease Agreement.

E. Notice

CKHA and City hereby designate the business mailing addresses set forth below as the places where all written notices, directions or other communications between the Parties shall be delivered, or to which they shall be mailed. Such addresses may be changed at any time by either party upon written notice to the other party in the manner prescribed herein. The Parties, or either of them, may also agree that an electronic/email address be used for purposes of this notice provision upon written request and/or acknowledgment by either/both parties.

CKHA/LESSOR:

Charleston-Kanawha Housing
Chief Executive Officer
P.O. Box 86
Charleston, WV 25321-0086

With a copy to:
CKHA General/House Counsel
Ellis Law Offices, PLLC
1118 Kanawha Blvd., East
Charleston, WV 25301

CITY/LESSEE:
City Manager
City of Charleston
P.O. Box 2749
Charleston, WV 26330

With a copy to:
City Attorney
City of Charleston
P.O. Box 2749
Charleston, WV 26330

F. Recording

This Lease Agreement shall not be recorded.

G. Governing Law; Dispute Resolution; Consent to Jurisdiction and Venue

This Agreement shall be deemed to be executed in the City of Charleston, W.Va., and shall be governed by and construed in accordance with the laws of the State of West Virginia.

In the event of any breach, default, or other dispute arising from or related to the Agreement, the Parties mutually agree that they will exercise good faith and commercially reasonable efforts to resolve said breach, default or other dispute through consultation and negotiation. If negotiation does not resolve the dispute, either Party may request non-binding mediation. If requested, the Parties agree to participate in good faith in non-binding mediation performed by a mutually agreed third-party mediator and in a manner mutually agreed to by the Parties. The mediation may be conducted remotely using available virtual technology with each Party, and/or the mediator, in a different physical location. The Parties acknowledge and agree that any proposed resolution reached through consultation, negotiation, or mediation may be subject to approval by each Party's governing body during a public meeting.

Any dispute which cannot be resolved between the Parties through consultation, negotiation or mediation within a reasonable time may be submitted to a court of competent jurisdiction as set forth herein. Notwithstanding, nothing shall prevent either of the Parties from resorting to judicial proceedings if interim relief from a court of competent jurisdiction is necessary to prevent immediate, serious, and irreparable injury to one of the Parties or to others. If the Parties cannot resolve the matter without litigation, the Parties acknowledge, consent, and agree that either the Circuit Court of Kanawha County, West Virginia, or the Federal District Court for the Southern District of West Virginia shall have exclusive jurisdiction to resolve the breach, default or other dispute giving rise to the litigation.

H. Construction & Interpretation

This Lease has been executed after review and negotiation by sophisticated parties with the involvement of legal counsel and shall not be construed against either party. To the extent any

ambiguity exists, the provisions of this Lease will be interpreted in a manner designed to fulfill the lawful intent of the Parties as set forth in this Lease.

I. Waiver.

A waiver by either party of a breach of any provision of this Lease Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the provisions the Lease Agreement unless and until the same shall be agreed to in writing by the Parties.

J. Time of the Essence; Non-Business Days

Time shall be of the essence for the performance of duties and obligations required by this Lease Agreement. When any action is requested or required to be performed, as permitted by this Lease Agreement, on a certain day or within a specified time period, and the day or the last day of the period falls on a day other than a Business Day, such action may be performed on the next ensuing Business Day with the same effect as though performed on the appointed day or within the specified period.

K. Severability

If any covenant, agreement or provision, or any portion thereof contained in this Lease Agreement, where the application thereof to any person or circumstance is held to be unconstitutional, invalid or unenforceable, the remainder of this Lease Agreement and the application of such covenant, agreement or provision, or portion thereof, to other persons or circumstances, shall be deemed severable and shall not be affected thereby, and this Lease Agreement shall remain valid and enforceable.

L. Counterparts

This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one instrument.

M. Amendments, Supplements & Modifications

This Lease Agreement may only be amended, supplemented, or modified by written agreement executed by an authorized representative of each Party.

N. Entire Agreement

This Lease Agreement, including Exhibit A and all other documents attached hereto or incorporated by reference herein, constitutes the entire Agreement between the Parties and supersedes all prior or contemporaneous communications, whether electronic, oral or written between the Parties. This Lease Agreement is not subject to modification, amendment, qualification or limitation except as expressly provided herein.

[SIGNATURE PAGE FOLLOWS]

SIGNATURE PAGE

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Agreement to be executed as of the date and year first written above.

**CHARLESTON-KANAWHA HOUSING
AUTHORITY (LESSOR)**

**CITY OF CHARLESTON
(LESSEE)**

By: _____
MARK E. TAYLOR
Its Chief Executive Officer

By: _____
AMY SHULER GOODWIN
Its Mayor



Exhibit A

Fire Station 8 Training Facility Lease Area

Beginning at a point in the southern line of a 14ft wide tract belonging to the City of Charleston and referenced in Deed Book 2594 at Page 951, Parcel Two. Said City tract is also shown on a map recorded at Map Book 61 Page 23. Said point of beginning also being S65° 07' 19"E and 75.42' from the southwest most corner of said City tract at the right of way of Copenhaver Drive; Thence with the line of said City tract S65° 07' 19"E and 113.38' to a point, and being 28.33' from the southeast most corner of said City tract; Thence leaving the common line with the city S36° 46' 38"W and 290.84' to a point; Thence N49° 48' 14"W and 159.50' to a point at east side of Copenhaver Drive; Thence with Copenhaver Drive N37° 44' 21"E and 36.25'; Thence leaving Copenhaver Drive S55° 08' 25"E and 75.14' to a point; Thence N39° 19' 51"E and 118.97' to a point; Thence N25° 15' 02"E and 81.30' to a point; Thence N1° 48' 06"W and 26.45' to the point and place of beginning.

Said lease area containing +- 0.61 acres and is more particularly described on a map created 2/10/2025 by the City of Charleston Engineering Department attached hereto and titled "Fire Station 8 Training Facility - Lease Agreement Area Map".



Note:
Not intended as Property Boundary Survey. Purpose of Map
to indicate Lease Area location.



CITY OF CHARLESTON

ENGINEERING DEPARTMENT

Title: Fire Station 8 Training Facility -
Lease Agreement Area Map

Subject: Lease Area

SURVEYED BY:	SCALE: 1"=50'
DRAWN BY: S. Birurakis	DATE: 2/10/2025
	Fire Station 8 Training Area
	DRAWING NAME:
Site Vicinity Location: 38°22'39" -81°39'48"	SHEET 1 of 1



Craig A. Matthews
Fire Chief

Charleston Fire Department

808 Virginia Street, West
Charleston, West Virginia 25302
Telephone: (304) 348-8137



Amy Shuler Goodwin
Mayor

May 2nd, 2025

Reference: Orchard Manor Fire Training Facility

Location & Dimensions-

The new training site will be located adjacent to Fire Station #8 in Orchard Manor. The entire training area will encompass approximately 0.6 acres of currently vacant land located behind the Kanawha/Charleston Housing Authority's (KCHA) maintenance building. (see attachment #1) The entire perimeter of the site will be enclosed with 8-foot security fencing. Two vehicles access gates will be installed to allow fire apparatus access to the training site. Gate #1 will be installed coming off Copenhaver Drive adjacent to the current fenced parking lot of the KCHA. (see attachment #2) Gate #2 will also serve as a vehicle access point and will be located off the existing driveway located at Station #8. (see attachment #2) A 12-foot gravel roadway will connect the two access points to allow for easy entrance and exits of the larger apparatus. An operational area measuring 100' by 150' consisting of gravel and concrete piers will be created to support the actual training facility and provide a safe clear work environment around the structure. (see attachment #3) The physical training facility will be constructed using nine (9) 40' shipping containers and three (3) 20' shipping containers. These containers will be arranged to create a training structure 88' in length, 24' in width and reaching 40' in height at the tallest point. (see attachment #4)

Function & Use-

This facility was designed to provide a safe and controlled training environment for our firefighters to practice the skills needed on the actual fireground. The training facility has the flexibility to offer realistic and challenging scenarios for the various emergencies that our fire department must face. This new training resource can be used for training in the following emergency response disciplines:

Structure Fire Fighting- The bread-and-butter operations of the Fire Department. This facility will help our fire fighters, young and old, to develop the skills and teamwork needed to tackle the task of fighting a building fire. With the flexibility of this facility, our training staff can simulate fires in different types of structures, including one-story and multi-story residential buildings, commercial buildings, strip malls, industrial warehouses with shipping docks and high-rise buildings just to name a few.

USAR- Our department maintains a regional USAR team (Urban Search and Rescue). This team is a specialized, multi-disciplined group trained to respond to disasters involving structural collapses, particularly in urban areas, to locate, extricate and evacuate trapped victims and to stabilize structures for emergency operations. This new facility was designed to allow our USAR team to practice their high-risk operations safely. The design allows for confined spaces and an elevated platform for high angle rescue and hoisting operations.

HAZ-MAT- This training area will allow our Hazardous Material Team to have enough space to realistically train for emergency incidents. Currently when our Haz-mat team conducts full-scale training we must close public areas in the city to allow for the proper placement of apparatus and spacing for safe training.

Recruit Training- The best use of this facility will be during our training of new recruits when they are first hired by the department. This training area will provide each class of recruits with a similar and consistent Fire Academy. Currently our training staff is forced to obtain suitable buildings and areas to conduct our basic recruit training. This has led to an inconsistency in the training that each recruit class receives. This facility will also allow our training staff to better observe and evaluate each recruit on their mastery of basic firefighting skills.

Other City Agencies- While primarily used for fire training, this facility can also benefit other city departments with their training needs. This facility could be used by the Charleston Police Department for the training of their K-9 units as well as for the SWAT Team. The Sanitary Board could also take advantage of the facility for confined space training.

Neighborhood Concerns-

The Charleston Fire Department has consistently been a good neighbor since moving into the Orchard Manor neighborhood in 2003. With the addition of this facility the CFD will be mindful of its neighbors and work diligently not to create any nuisance to the neighborhood. To this end, the CFD will not be conducting live fire evolutions in this training structure. This is avoiding harsh smoke in the community and the risk of damaging and/or contaminating the training facility. Our training will be conducted using simulated smoke produced by our fog machines. Currently most of our training is already being conducted at Station #8 so we only foresee a slight increase in fire apparatus in the area.

While we do plan to conduct some nighttime training to provide some low-light scenarios for our members, these will be limited in numbers and will be concluded no later than 10 pm. The CFD will provide prior notice to the public via social media and press release of planned nighttime training.

Resolution No. 25-047

Introduced in Council:

May 19, 2025

Adopted by Council:

Introduced by:

Joseph Jenkins

Referred to:

Finance Committee

Resolution No. 25-047 - Authorizing settlement of a pending disputed claim against the City, by Dutch Miller – Subaru, related to a ruptured private water line attached to a private fire hydrant that was being used for training purposes by the Charleston Fire Department, as recommended by the City Solicitor.

Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia:

That the City Council hereby authorizes and approves the settlement of a pending disputed claim against the City, by Dutch Miller – Subaru, related to a broken private water line attached to a private fire hydrant that was being used for training purposes by the Charleston Fire Department, in the amount of \$137,167.17, as recommended by the City Solicitor. The City Council authorizes the City Solicitor and City Manager to take all necessary steps to finalize resolution of the claim.

Mullen

Plumbing ♦ Heating ♦ Cooling

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South Charleston, WV 25303

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WV Contractor License #WV001126
<https://mullenplumbing.com/>
contact@mullenplumbing.com

BILL TO

Dutch Miller - Subaru
1901 Patrick Street Plaza
Charleston, WV 25387 USA

INVOICE
210292

INVOICE DATE
Mar 21, 2025

JOB ADDRESS

1901 Patrick Street Plaza
1901 Patrick Street Plaza
Charleston, WV 25387 USA

Completed Date: 3/21/2025
Payment Term: Due Upon Receipt
Due Date: 3/21/2025

DESCRIPTION OF WORK

Water leak in the roadway. Dug out and repaired 12" Ductile iron water line that had blown apart. Due to the depth (5') and condition of the soil, safety measures had to be put in place. Once the line was repaired, water was turned on and flushed through the fire hydrant by WVAWC. The hole was back-filled with gravel and tamped at 1' intervals. The light fixture closest to the leak started leaning due to the water. The pole was taken down, a new footer was installed and the light pole was reinstalled.

Replace asphalt that was damaged when the water leak occurred.
Ground down asphalt and repaved.

TASK	DESCRIPTION	QTY	PRICE	TOTAL
SD-102	Sewer & Drain Service	1.00	\$45,233.02	\$45,233.02
SD-101	Sewer & Drain Install Job	1.00	\$88,767.84	\$88,767.84

SUB-TOTAL	\$134,000.86
CHARLESTON 1%	\$452.33
WV SALES TAX 6% 6%	\$2,713.98
TOTAL DUE	\$137,167.17
BALANCE DUE	\$137,167.17

Thank you for choosing Mullen Plumbing, Heating & Cooling

CUSTOMER AUTHORIZATION

We will execute installation/service calls to the best of our ability in a workmanlike manner.

Sign here

Date

CUSTOMER ACKNOWLEDGEMENT

I find and agree that all work performed by Tom's Plumbing, Inc. has been completed in a satisfactory and workmanlike manner. I have been given the opportunity to address concerns and/or discrepancies in the work provided, and I either have no such concerns or have found no discrepancies or they have been addressed to my satisfaction. My signature here signifies my full and final acceptance of all work performed by the contractor.

Sign here

Date
