

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is made and entered into on May __, 2024 (the “**Effective Date**”), by and among Charleston Urban Renewal Authority (“**Seller**”) and the City of Charleston, a municipal corporation (“**Purchaser**”).

WHEREAS, Purchaser desires to purchase from Seller the real property known as 1324 Lee Street East, Charleston, West Virginia, more particularly described as the property situate in Kanawha County District 11, Map 17, Parcel 153, and the real property facing Lee Street between the Purchaser’s Fire Station 1 and the property formerly known as 1322 Lee Street East, Charleston, West Virginia, which is a portion of Kanawha County District 11, Map 17, Parcel 135, all of which is shown on **Exhibit A** attached hereto and incorporated herein by reference, together with any improvements thereon and appurtenances thereto (collectively the “**Property**”); and

WHEREAS, on the terms and conditions hereinafter set forth below, Purchaser desires to purchase and receive from Seller, and Seller desires to sell, deliver and assign to Purchaser, the Property.

NOW THEREFORE, WITNESSETH: subject to the terms, provisions and conditions hereinafter set forth, and for and in consideration of the mutual covenants and conditions set forth and contained in this Agreement as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Property.

a. The Property consists of approximately 18,360 square feet (3,960 of which make up 1324 Lee Street and 14,400 of which make up the empty lot facing Lee Street and adjacent to Purchaser’s Fire Station 1) more or less, and all improvements thereon and appurtenances thereto, as depicted and more particularly described and shown on **Exhibit A** and subject to the completion of a Survey by Purchaser (as defined in Section 4 herein). The parties hereto acknowledge that a final legal description of the Property will be finalized within fifteen (15) business days after completion of the Survey.

b. The parties also further agree that, at Closing, Seller shall convey to Purchaser via General Warranty Deed fee simple title to the Property, which is owned by Seller, free and clear of any liens or encumbrances except for the Permitted Encumbrances.

2. Purchase Price. Subject to the approval of the City Council for the City of Charleston, West Virginia, and the Board of the Charleston Urban Renewal Authority the purchase price (the “**Purchase Price**”) for the Property shall be One Hundred Thousand Dollars USD (\$100,000.00). The Purchase Price, less any credits as set forth herein, shall be payable, subject to prorations and credits as provided for in this Agreement, in full by Purchaser to Seller by check at Closing.

3. Due Diligence.

a. **Due Diligence.**

i. For forty five (45) days from the Effective Date (the “**Due Diligence Period**”), Purchaser and its agents and consultants shall have reasonable access to the Property and shall be permitted to make such inspections, studies, reports, tests, copies and verifications, including without limitation environmental and geotechnical testing, as they shall deem necessary or appropriate to determine, in Purchaser's sole and absolute discretion, whether the Property is satisfactory. The cost of such due diligence review undertaken by Purchaser pursuant to this Agreement shall be borne solely by Purchaser. Included as part of the Due Diligence Period is Purchaser’s attempt to obtain approval by the City Council for the City of Charleston, West Virginia and Seller’s attempt to obtain approval by Board of the Charleston Urban Renewal Authority. Approval of the City Council for the City of Charleston, West Virginia and the Board of the Charleston Urban Renewal Authority are a requirements for the Purchaser to notify the Seller of approval pursuant to subsection ii. of this section.

ii. Purchaser shall notify Seller in writing of its approval or disapproval of the results of its due diligence review of the Property prior to the expiration of the Due Diligence Period. Purchaser shall be entitled for any reason to terminate this Agreement by written notice delivered to Seller on or prior to the expiration of the Due Diligence Period. If Purchaser notifies Seller prior to the expiration of the Due Diligence Period that Purchaser has elected to terminate this Agreement, the Parties shall have no further obligations or liabilities hereunder and this Agreement shall be null and void (except for such matters which survive termination of this Agreement). If Purchaser does not timely give its written disapproval of the results of the due diligence review, this Agreement shall continue in full force and effect subject to the remaining contingencies and obligations of the parties herein.

b. **Permitted Exceptions.** As used in this Agreement, the term “**Permitted Exceptions**” shall mean (i) statutory liens for real property taxes that are not overdue or delinquent, (ii) utility rights of way and easements that do not impose burdens or use restrictions on the Property that materially exceed the burdens or restrictions customarily contained in such instruments in Kanawha County, West Virginia, and will not interfere with Purchaser’s planned use and development of the Property, (iii) covenants, restrictions, conditions and easements of record that do not interfere with Purchaser’s intended use of the Property.

4. **Survey.** Purchaser may cause the Property to be surveyed by a licensed land surveyor which may be in accordance with ALTA standards. Promptly after completion of such survey, Purchaser shall present, or cause to be presented, to Seller a plat of such survey, depicting the proposed location of the boundary lines of such land, the location of any easements, rights-of-way or other encumbrances to the extent plottable, and the acreage of such land to the nearest one-one-thousandth (1/1000th) of an acre (the “**Survey**”). The cost of the Survey shall be the responsibility of the Purchaser. Purchaser shall be responsible for the cost of all title work necessary to meet the ALTA survey standards and shall provide the professional firm engaged by the Purchaser, to perform the Survey with such title work on or before the commencement of the Survey work.

5. **Seller Contingencies.** Seller shall provide to Purchaser a copy of all known existing agreements with respect to the Property, whether such agreements are recorded or unrecorded, within three business days of executing this Agreement. In addition to any other contingencies set forth herein, Seller' obligations to conclude this transaction is contingent upon the satisfactory assignment of any existing agreements with respect to the Property to Purchaser from Seller at Closing. If agreements are unacceptable to Purchaser for any reason, then Purchaser shall be entitled, at its election, to terminate this Agreement by written notice to Seller.

6. **Representations and Warranties of Seller.** Seller makes no warranties and representations to Purchaser regarding the Property and any sale to Purchaser is an "as is, where is" sale.

7. **Closing.**

a. **Date.** The closing of the transaction contemplated herein (the "Closing") shall occur at a mutually agreeable time and place within 30 days of the conclusion of the Due Diligence Period.

(i) Purchaser shall have an option (the "**Extension Option**"), in its sole and absolute discretion, to extend the Closing for a period not exceeding thirty (30) days, provided that Purchaser provides Seller with written notice of its election to exercise the Extension Option no less than six (6) business days prior to the original Closing date.

(ii) Purchaser shall have an additional option (the "**Second Extension Option**"), in its sole and absolute discretion, to extend the Closing Date for another period not exceeding thirty (30) days, provided that Purchaser provides Seller with written notice of its election to exercise the Second Extension Option no less than six (6) business days prior to the Closing date as extended by the Extension Option.

b. **Seller Responsibilities.** At the Closing, Seller shall furnish and deliver to Purchaser, at Seller' expense (except as otherwise herein provided), the following:

(i) A General Warranty Deed duly executed and acknowledged by Seller, dated as of the Closing, in a form pre-approved by Purchaser;

(ii) Such other instruments or documents as are necessary or reasonably required by Purchaser to consummate the transfer of the Property as herein contemplated;

(iii) Seller shall deliver possession of the Property to Purchaser on the Closing date; and

(iv) A counterpart of a closing statement.

c. **Purchaser Responsibilities.** At the Closing, Purchaser shall deliver to Seller, at Purchaser's expense, the following:

- (i) The Purchase Price, less any closing credits, in immediately available funds of the United States of America;
- (ii) A counterpart of a closing statement; and
- (iii) Such other instruments or documents as are necessary or reasonably required by Seller to consummate the transfer of the Property as herein contemplated.

d. Expenses of Closing.

- (i) Seller shall pay: its own attorneys' fees; transfer taxes and recording fees pertaining to conveyance of the Property.
- (ii) Purchaser shall pay: all title examination fees; its own attorneys' fees; and, other charges required to be paid by Purchaser pursuant to this Agreement.

8. Default and Remedies.

a. Purchaser's Default. In the event Purchaser defaults or fails to perform any obligation of Purchaser under this Agreement, including but not limited to the inability to obtain the approval of the City Council for the City of Charleston, and such default and failure shall remain uncured for a period of thirty (30) days following written notice thereof from Seller to Purchaser, Seller may, as its exclusive remedy, terminate this Agreement. If Seller elects to terminate this Agreement, Purchaser's and Seller's rights and obligation under this Agreement shall terminate.

b. Seller's Default. In the event Seller defaults under this Agreement, or any material representation or warranty of Seller is not true, or in the event Seller fails to perform any material obligation of Seller under this Agreement, including without limitation, the obligation to convey good and marketable title to the Property to Purchaser at Closing subject only to Permitted Exceptions and to perform each of the obligations of Seller required to be performed at Closing in accordance with the provisions of this Agreement, all of which shall be considered material for purposes hereof, then Purchaser may: (i) terminate this Agreement; (ii) commence an action to compel specific performance of this Agreement at the cost and expense (including reasonable attorneys' fees) of Seller; (iii) commence an action to recovery from Seller of any and all damages due to Seller's default.

9. Miscellaneous.

a. Notices. All notices, requests and other communications under this Agreement shall be in writing and shall be delivered by email, addressed as follows:

If intended for Seller: Charleston Urban Renewal Authority
Ron Butlin, Executive Director

Email: RButlin@CURAWV.org

If intended for Purchaser: City of Charleston
Ben Mishoe, City Manager
Email: ben.mishoe@cityofcharleston.org

or at such other address, and to the attention of such other person, as the parties shall give notice as herein provided.

b. Survival. The acceptance of the Deed by Purchaser shall be deemed to be a full performance and discharge of every agreement and obligation on the part of Seller to be performed prior to Closing pursuant to the provisions of this Agreement, except those which are herein specifically stated to survive Closing or which, pursuant to the provisions of this Agreement, contemplate performance after the Closing. The obligations of the parties not fully performed at the Closing (other than any unfulfilled closing conditions which have been waived or deemed waived by the other party) shall survive the Closing and shall not be deemed to be merged into or waived by the instruments of Closing.

c. Entire Agreement; Modifications. This Agreement embodies and constitutes the entire understanding between the parties with respect to the transactions contemplated herein, and all prior or contemporaneous agreements, understandings, representations and statements (oral or written) are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

d. Applicable Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of West Virginia.

e. Captions. The captions in this Agreement are inserted for convenience of reference only and shall not define, describe, or limit the scope or intent of this Agreement or any of the provisions hereof.

f. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

g. Time is of the Essence. With respect to all provisions of this Agreement, time is of the essence.

h. Amendments. This Agreement once properly signed by both parties can be changed only by written instrument executed by an authorized representative of each of the respective parties hereto.

i. **Recording.** Neither party shall record this Agreement and any such recording shall constitute an incurable default by the recording party hereunder.

j. **Counterpart Execution.** This Agreement may be executed in multiple counterparts. A facsimile or electronic copy of this Agreement bearing the signature of a party hereto shall be sufficient to bind such party to the terms of this Agreement.

k. **Negotiated Agreement.** This Agreement is the result of negotiations between Seller and Purchaser. Accordingly, neither party shall be deemed to be the author of this Agreement, nor shall there be a presumption that this Agreement is to be construed for or against any such party based on the authorship of the document.

l. **Further Assurances.** At any time, and from time to time, after execution of this Agreement and after the Closing, as requested by another party hereto or any other person or entity and without further consideration, Seller and Purchaser shall take such action as the requesting party, person or entity may reasonably request to consummate or further the transactions contemplated hereby.

m. **Broker Commissions.** Seller and Purchaser each represent and warrant that such party has not entered into any agreement, incurred any obligation or know of any facts which might result in an obligation for the other party to pay a sales or brokerage commission or finder's fee for this transaction.

[signatures appear next page]

IN WITNESS WHEREOF, this Agreement has been entered into effective as of the Effective Date first above written.

SELLER:

CHARLESTON URBAN RENEWAL
AUTHORITY

By: Ron Butlin
Its: Executive Director

PURCHASER:

CITY OF CHARLESTON, WEST
VIRGINIA

By: Benjamin Mishoe
Its: City Manager

Exhibit A