



CITY OF DANBURY

155 DEER HILL AVENUE

DANBURY, CONNECTICUT 06810

COMMON COUNCIL

REPORT

December 7, 2004

Mayor Mark D. Boughton
Members of the Common Council

Re: **Engine Co. 25 Lease**

The Common Council Committee appointed to review the lease with Engine Co. 25 met on November 15, 2004 at 8:00 P.M. in the Third Floor Caucus Room in City Hall. In attendance were committee members Nolan, McMahon and Saadi. Also in attendance were Deputy Corporation Counsel Eric Gottschalk, Fire Chief Peter Siecienski, Director of Finance Dena Diorio and Council Members Cavo, Nagarsheth, Saracino and Trombetta, ex-officio.

Attorney Gottschalk stated that the new lease provides for a 20-year term, with two five-year options. It provides for rent increases and addresses the Fire Department's need for additional accommodations. The City is prepared to build an addition. The space is 24 x 57 feet. The lease also provides for repairs to the existing septic system, etc. This agreement provides for the use of the new structure and contains the typical language that you would find in a lease of this type.

Chief Siecienski said that this is the best option at this point. A stand-alone building is not going to be built because there are no funds for land acquisition. The lease holds the annual rent payments steady for the next five years. There is \$400,000 put into improvements but the City will get its money's worth over the thirty years. Director of Finance Dena Diorio said the 20-year term is important because of debt service.

Mr. Saadi asked about the anticipated time for the improvements. Chief Siecienski said he hopes it goes out to bid by the end of the year, with a ground breaking in the spring. Mr. Nolan asked if the funds previously bonded for construction are still available? Ms. Diorio said they are and are sufficient.

Mrs. McMahon made a motion to recommend approval of the lease amendments. Seconded by Mr. Saadi. Motion carried unanimously.

Respectfully submitted,

VINCENT P. NOLAN, Chairman

LOUISE McMAHON

THOMAS SAADI

**LEASE AMENDMENT AND
EXTENSION AGREEMENT**

This Agreement is made this day of , 2004, by and between **THE KING STREET VOLUNTEER FIRE COMPANY, INCORPORATED** a non-stock corporation, with a principal place of business at South King Street, Danbury, Connecticut, hereafter referred to as the LANDLORD and the **CITY OF DANBURY**, a municipal corporation organized and existing under and by virtue of the laws of the State of Connecticut with its city hall located at 155 Deer Hill Avenue, Danbury, Connecticut, hereinafter referred to as the TENANT.

WHEREAS, the LANDLORD and the TENANT entered into a certain Lease dated July 1, 1994 (hereinafter designated as the "Lease"); and,

WHEREAS, the LANDLORD and the TENANT wish to expand the area of the Leased Premises to include an additional parcel of land being approximately 24 x 57 feet for the purpose of constructing an addition to the space it currently leases for the use of the Danbury Fire Department; and,

WHEREAS, the LANDLORD and the TENANT wish to extend the term of the Lease;

NOW THEREFORE, for One Dollar (\$1.00) and other valuable consideration the parties agree as follows:

1. Paragraph Number 1 of the Lease is hereby amended to expand the leased premises to include a parcel of land being 24 x 57 feet on the west side of the existing block and frame building as shown on a certain map entitled King Street Volunteer Fire Company, Inc. Danbury Connecticut prepared by Donald J. Zaleta, AIA dated May 20, 1999 (hereinafter designated as the "Map"), together with the use of the parking area shown on said Map. The property described in the Lease and in this Amendment shall hereinafter be known as the Leased Premises. The leased premises referred to in the Lease if separately identified shall be hereinafter known as Leased Premises One and the leased premises described in this Amendment if separately identified shall hereinafter be described as Leased Premises Two.

2. Paragraph Number 2 of the Lease is hereby amended by deleting the second sentence thereof and by substituting the following language in lieu thereof: The term of this Lease shall be extended through June 30, 2024. The TENANT may, at its sole option extend the term of the Lease for two additional terms of five (5) years each, the first expiring on June 30, 2029 and the second expiring on June 30, 2034.

3. Paragraph Number 3 of the Lease is hereby amended by deleting the last two paragraphs thereof and by substituting the following language in lieu thereof: The rent for the initial twenty (20) years of the expanded term of the Lease and this Amendment shall accrue annually as follows:

July 1, 2004 through June 30, 2009	\$19,546.73
July 1, 2009 through June 30, 2014	\$20,524.07
July 1, 2014 through June 30, 2019	\$21,550.27
July 1, 2019 through June 30, 2024	\$22,627.78

The annual rent shall be payable on the first day of July in each and every year. In the event that the TENANT exercises either or both of its options pursuant to paragraph 2 hereof, the rent during said option periods shall be fixed as follows:

July 1, 2024 through June 30, 2029	\$23,759.17
July 1, 2029 through June 30, 2034	\$24,947.13

The TENANT and the LANDLORD shall be responsible for all utility charges they incur. All utility charges that cannot be specifically attributed to use by either the TENANT or the LANDLORD shall be divided equally between them. All utility charges incurred by the TENANT, but billed to the LANDLORD, shall be added to the rental amounts described above. As part of the improvements to be undertaken by the TENANT on Leased Premises Two, it shall arrange to have separate water meters installed on the Leased Premises. One such meter shall measure the combined use by the LANDLORD and the TENANT and the other meter shall measure use by the TENANT. For purposes of this paragraph utilities shall include but not necessarily be limited to heating fuel, electricity and public water service and if and when applicable, utility charges may include any municipal charges and assessments for public sewer service.

4. Paragraph Number 6 of the Lease is hereby amended by the addition of Paragraph 6.F., which paragraph reads as follows: The TENANT agrees with respect to Leased Premises Two, to be responsible for the construction of any and all improvements to be located on Leased Premises Two, to keep the same free of any liens and to perform all of said work in a good workmanlike manner. Throughout the term of this Lease, except as otherwise provided for in this Lease, the TENANT shall be responsible for all repairs (both structural and non-structural), replacements and maintenance with respect to Leased Premises Two and any improvements to be constructed thereon by the TENANT. In addition, the TENANT agrees to be responsible for any alterations or changes to the parking area and utilities as shown on the Map. As part of the expansion of the Leased Premises the TENANT shall design repairs to the existing septic system. As part of the solicitation of bids for construction of improvements on Leased Premises Two the TENANT shall solicit bids for the repairs to the septic system. The TENANT shall notify the LANDLORD of the bids received. The LANDLORD shall either agree or decline to participate in the funding of the repairs pursuant to said bid within ten (10) day of receipt of notice of the bid results. If the LANDLORD fails to advise the TENANT of its decision within said period, it shall be deemed to have agreed to participate in the funding of the repairs pursuant to said bid. If the LANDLORD declines to participate in the funding of the repairs pursuant to the bid, then the LANDLORD shall perform the repairs. In either event the full cost of said repairs, excluding the costs of design, and permitting shall be divided equally between the LANDLORD and the TENANT. Notwithstanding the foregoing, if the LANDLORD elects to perform the repair work, the

TENANT's share of the cost thereof shall not exceed one half of the amount of the bid previously received with respect to said work. Any improvements, renovations or alterations made by the TENANT to the Leased Premises shall belong to the LANDLORD. In the event that public sewers are extended to serve the Leased Premises, the full cost of said work, including, but not limited to the costs of design, permitting and construction, shall be divided equally between the LANDLORD and the TENANT.

5. Paragraph Number 7 of the Lease is hereby amended by adding the following paragraph: Any other provision of this Lease to the contrary notwithstanding, in the event that the LANDLORD is obliged, pursuant to the provisions of this section, to make repairs or remedy any defect or condition of the Leased Premises and fails to do so within a reasonable period of time following receipt of written notice thereof, the TENANT shall be authorized to make said repairs or remedy said defect or condition and may either deduct the cost thereof from the rent or bill the LANDLORD directly for said work. In the latter event the LANDLORD shall reimburse the TENANT promptly for costs so incurred.

6. Subparagraph Number 8.A. of the Lease is hereby amended by changing the limits of liability insurance coverage to require the TENANT to provide single limit liability coverage in the amount of one million dollars (\$1,000,000.00).

Subparagraph Number 8.C. of the Lease is hereby amended by adding a sentence reading as follows: "Said insurance shall be in an amount sufficient to fund a complete replacement of the Leased Premises to the extent required or permitted by Paragraph 9 of this Lease."

7. Paragraph Number 9 of the Lease is hereby deleted and the following substituted in lieu thereof: In the event of the destruction of the Leased Premises during the term hereby created, or such partial destruction thereof as to render the premises wholly untenable or unfit for occupancy or should the Leased Premises be so badly damaged that the same cannot be repaired within ninety (90) days from the happening of such damage or destruction, then the this Lease shall, at the option of the TENANT, to be exercised by written notice to the LANDLORD within ten (30) days of said damage or destruction, terminate and become null and void from the date of such damage or destruction. In the event that the TENANT does not exercise its option to terminate the Lease, but instead makes a written commitment to continue the tenancy either under the original term or the option periods, but in no event for less than ten years, the LANDLORD may elect to reconstruct the Leased Premises within a period of time acceptable to the TENANT or may permit the TENANT to reconstruct the Leased Premises. In the event the Leased Premises are reconstructed, the TENANT shall be relieved of the obligation to pay rent during any period when the Leased Premises are unfit for occupancy. In the event that the TENANT reconstructs the Leased Premises, the LANDLORD shall reimburse the TENANT for all reconstruction expenses incurred thereby to the extent that said expenses are covered by insurance and TENANT shall also be relieved of the obligation to pay rent until it has offset all reconstruction expenses incurred by it over and above those sums recovered from insurance sources. In the event

that neither party elects to reconstruct the Leased Premises, the LANDLORD shall reimburse the TENANT for a prorata portion of the cost of the work associated with the improvements, alterations and renovations to Leased Premises Two. Said portion shall be determined by multiplying said costs by a fraction the numerator of which shall be the number of months remaining in the original term hereof and the denominator shall be two hundred and forty. In that case, the LANDLORD may reenter and repossess the premises.

Should the demised premises be rendered untenable and unfit for occupancy, but yet be repairable within ninety (90) days for the happening of said damage, the LANDLORD agrees to enter and repair the same with reasonable speed, and the rent shall not accrue after said damage or while repairs are being made, but shall recommence immediately after said repairs shall be completed. In the event that the premises are rendered partially untenable during such period of repair, the rent shall be abated pro rata. But if the Leased Premises, without fault of the TENANT, shall be so slightly injured as not to be rendered untenable and unfit for occupancy, then the LANDLORD agrees to repair the same with reasonable promptness and in that case the rent accrued and accruing shall not cease or determine. The TENANT shall immediately notify the LANDLORD in case of fire or other damage to the premises.

8. Paragraph Number 10 of the Lease is hereby amended by the addition of Paragraph 10.D., which paragraph reads as follows: Any inconsistent provisions of this Lease notwithstanding, in the event that there shall be a taking in whole or in part of the building to be constructed on Leased Premises Two, then in such event any award for such building and improvements located thereon shall belong solely to the TENANT.

9. The provisions of Paragraph Number 12 of the Lease shall be amended by deleting all references to default and notice periods and substituting sixty (60) days in lieu thereof.

10. Paragraph Number 14 of the Lease is hereby amended by deleting the second paragraph thereof.

11. Paragraph Number 16 of the Lease is hereby deleted.

12. Paragraph Number 17 of the Lease hereby is amended by adding a paragraph, which paragraph reads as follows: The LANDLORD shall pay and indemnify the TENANT against all legal costs and charges, including counsel fees, lawfully and reasonably incurred in enforcing any covenant of the LANDLORD herein contained.

13. The TENANT agrees to keep the Leased Premises free from any liens including mechanics liens. In the event that any lien is filed against the Leased Premises for work performed on behalf of the TENANT then in such event the TENANT shall cause the same to be removed or a procedure for the substitution of a bond with surety pursuant to the provisions of section 49-37 of the Connecticut General Statutes begun within a period

of ninety (90) days of the date of written notification of the filing of said lien is given by the LANDLORD to the TENANT.

14. All improvements constructed by the TENANT on the Leased Premises (except removable personal property belonging to the TENANT) shall become the property of the LANDLORD at the commencement of this Lease.

15. The TENANT shall have the right to terminate this Lease at any time after July 1, 2014, upon ninety (90) days written notice to the LANDLORD. In the event that the TENANT exercises said option it shall be relieved of any obligation to pay rent for any year commencing after the expiration of said ninety (90) day period except for the sum of \$4,300.00 per annum which the TENANT agrees to pay the LANDLORD for estimated annual expenses to be incurred by the LANDLORD in maintaining the Leased Premises after TENANT'S termination of the Lease Said sum shall be paid annually in advance on the date of said termination and on the same date annually thereafter through June 30, 2024.

16. The TENANT agrees that it shall not store any Hazardous Waste or petroleum product materials on, near, adjacent to, or in the Leased Premises in violation or municipal State or Federal Regulation. TENANT further agrees that it shall be responsible for all costs, damages, or liability that may be incurred in connection with TENANT causing any hazardous waste discharge, spillage, or any other violation of any law in the event TENANT stores or uses hazardous waste material or petroleum products on, near, adjacent to, or in the Leased Premises. TENANT further agrees to notify LANDLORD within twenty-four (24) hours of any hazardous waste or petroleum products discharge or violation of this paragraph.

TENANT agrees that it shall be responsible for the cleanup of any discharge or spillage caused by TENANT. In the event of TENANT'S hazardous waste discharge or spillage, if required by the appropriate state or federal authority with jurisdiction over such discharge or spillage, the TENANT shall immediately have said soil tested by a firm specializing in said work and, if required, enter into a contract for the removal of said soils and replacing of soils with clean fill and for the replacing of any areas disturbed because of said, discharge or spillage. All of said work shall take place within one hundred twenty (120) days of knowledge of said discharge or spillage.

In the event TENANT fails to perform said work as set forth in this paragraph, then, in such event, the LANDLORD may cause the same to be completed and the TENANT shall be responsible for the payment of same within ten (10) days after presentation of bill to TENANT for the work performed, together with all reasonable costs incurred by LANDLORD in the performance of said work and repairing any damage to the entire premises.

Notwithstanding anything herein to the contrary the Landlord shall be responsible for any cleanup, discharge or spillage caused by the oil tank which is currently located on the south side of the building.

17. All of the terms and conditions of the Lease that are not modified by this Amendment shall remain in full force and effect.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals this 25 day of October, 2004.

THE KING STREET VOLUNTEER FIRE COMPANY, INCORPORATED

[Signature]

[Signature]
John J. Otto, Trustee

[Signature]

By: [Signature]
Its President, duly authorized

[Signature]

THE CITY OF DANBURY

By: [Signature]
Mark D. Boughton
Its Mayor, duly authorized

State of Connecticut)
)ss: Danbury
County of Fairfield)

Oct 25, 2004

Personally appeared John J. Otto, Trustee of THE KING STREET VOLUNTEER FIRE COMPANY, INCORPORATED, signer and sealer of the foregoing instrument, he being duly authorized to do so and acknowledged the same to be his free act and deed and the free act and deed of said corporation.

[Signature]

State of Connecticut)
)ss: Danbury

OCT 25, 2004

[Signature]

EXP 5.31.09

County of Fairfield)

Personally appeared Thomas A. Lechner, President of THE KING STREET VOLUNTEER FIRE COMPANY, INCORPORATED, signer and sealer of the foregoing instrument, he being duly authorized to do so and acknowledged the same to be his free act and deed and the free act and deed of said corporation.

Thomas A. Lechner

State of Connecticut)

)ss: Danbury

OCT 25, 2004

County of Fairfield)

Mark D. Boughton

EXP 5.31.09

Personally appeared Mark D. Boughton, Mayor of the City of Danbury, signer and sealer of the foregoing instrument, he being duly authorized to do so and acknowledged the same to be his free act and deed and the free act and deed of said city.
